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United States Coast Guard
2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: G-CPM-2
Phone: (202) 267-1170
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COMDTNOTE 4200
JUN - 8 2000
CANCELLED:

COMMANDANT NOTICE 4200 JUN - 7 2001

Subj: CH-1 TO COAST GUARD ACQUISITION PROCEDURES (CGAP),
COMDTINST M4200.19F

1. PURPOSE. These procedures implement and supplement the Federal Acquisition Regulation (FAR), the Department of Transportation Acquisition Regulation (TAR), the Department of Transportation Acquisition Manual (TAM), and other departmental guidance; and establish Coast Guard acquisition policy. They are intended for the use of contracting personnel and others involved in the operation of acquiring supplies and services for the Coast Guard.
2. ACTION. Area and district commanders, commanders of maintenance and logistics commands, assistant commandants for directorates, commanding officers of headquarters units, Chief Counsel, and special offices at Headquarters shall ensure compliance with the provisions of this manual.
3. DIRECTIVES AFFECTED AND EFFECTIVE DATE. The Coast Guard Acquisition Procedures (CGAP), COMDTINST M4200.19F is revised to incorporate the enclosed pages. The change is effective the issued date, except for the Contracting Officer's Technical Representative (COTR) selection, training and certification which was effective December 31, 1999.
4. DISCUSSION. The FAR system consists of the FAR which is the primary document and the TAR and TAM which supplement the FAR. The FAR system is a flow-down system that prohibits repeating, paraphrasing or otherwise restating material contained in the FAR, TAR, or TAM. Therefore, in order to fully understand the CGAP, the reader must review it in

conjunction with the FAR, TAR, or TAM material it supplements. CGAP cites which supplement the TAR is subdivided into Parts and Subparts, and is found in the first

COMDTNOTE 4200

subdivision of this manual. CGAP cites which supplement the TAM is subdivided into Chapters and Subchapters and is found in the second subdivision of this Manual.

5. SUMMARY OF CHANGES. The updates through FAR 97-12, TAC 99-01, TAM

Note 00-02 and COCO Alerts 00-15. A summary of changes are as follows:

CHANGES WHICH IMPLEMENT THE TAM (CGAP CHAPTERS & SUBCHAPTERS)

- a. 1201.404 - Provides clarification when to coordinate review of class deviations with legal.
- b. 1201.602-2 - Incorporates reference to the Coast Guard's policy as required by TAM subchapter 1201.602-2. (COCO Alerts 00-10 and 00-15).
- c. 1203 - Updates subchapter 1203 to be consistent with FAR and TAM subchapters, including changes to subchapter 1203.104-6, deletion of 1203.104-8, 1203.104-9, 1203.104-12, and 1203.409.
- d. 1204.2 - Includes instructions for collecting Tax Identification Numbers (TINs) and incorporates COCO Alert 98-15 and 98-18.
- e. 1204.601 and 1204.602 - Provides the current location where the Contract Information (CIS) Users Guide can be found.
- f. 1204.802 (c)(5) - Includes new requirement regarding contract document dates.
- g. 1204.7000 - Includes new CGAP Subchapter 1237.103(c) regarding the review requirements for Performance-Based Service Contracts (including task orders).
- h. 1204.7002(c) - Includes the enclosure numbers which were

previously missing.

- i. 1204.7003(b)(2) - Clarifies that the legal review requirement applies to acquisitions conducted under the FAR Subpart 13.5, Test Program for Certain Commercial items and provides other edits to the same paragraph.
- j. 1204.9 - Includes instructions for collecting TINs and incorporates COCO Alert 98-15 and 98-18.
- k. 1205.303(a)(1)/(2) - Revises the threshold for submissions to the Governmental Affairs OST from \$1.5 M to \$3M established in TAM Note 99-03 and COCO Alert 99-12. Corrects the Coast Guard office identifications in this subchapter.

2

COMDTNOTE 4200

- l. 1207.1 - Revises this subchapter to align contents with current TAM, including thresholds.
- m. 1208.790(b) - Removes the requirement for the Small Business Specialist or Assistant Small Business Specialist from having to review the acquisition for NISH.
- n. 1211.201-90 - Incorporates changes in CGAP policy (COCO Alert 99-14).
- o. 1212.302 - Incorporates changes as a result of updates in TAM Note 00-02.
- p. 1214.201-890 - Incorporates reference for evaluation factors in bids for ship repairs
- q. 1215.303-90 - Incorporates reference to new enclosure (22).
- r. 1215.406-170 - Clarifies use of enclosures (19) and (20) information.
- s. 1215.606-190 - Revises paragraphs to comply with change at TAR 1215.606(b).

- t. 1217.106-3 - Changes are due to increased Congressional oversight of multiyear funding.
- u. 1217.208-90(f) - Includes policy to assist in distinguishing from the situation in 1217.204.
- v. 1217.503-90 - Updates in accordance with new OMB policy (COCO Alert 98-45).
- w. 1219.201(c) - Updates subchapter references to be consistent with TAM and FAR.
- x. 1219.202-270(b)(2) - Includes the report number for the Procurement Forecast.
- y. 1219.506 - Updates subchapter title to align with FAR .
- z. 1219.7 - Updates subchapter title to align with FAR.
- aa. 1219.810 - Changes the appeal authority to be retained by the Head of the Contracting Activity (HCA) as required by the TAM.
- ab. 1222.406-13 - Removes sentence regarding the use of the TAM form.

COMDTNOTE 4200

- ac. 1222.12, 1222.1203 and 1222.1206 - Incorporates guidance on Nondisplacement of Qualified Workers under Certain Contracts.
- ad. 1222.13 and 1222.14 - Updates titles to align with FAR.
- ae. 1228.1, 1228.101-2, and 1228.2 - Updates subchapter titles to align with FAR.
- af. 1228.204-3 - Deleted reference to OFPP Policy letter 91-4, since this policy letter has been incorporated into the FAR.
- ag. 1232.4 - Inserts Subchapter title previously omitted.

- ah. 1232.703-3 - Deletes previous policy (COCO Alert 99-32).
- ai. 1232.11 - Incorporates changes regarding Electronic Funds Transfer as a results of FAC 97-11.
- aj. 1236.213-70(b) - Corrects the due date for the submission of the Report of Proposed Federal Construction (COCO Alert 99-22).
- ak. 1237.103(c) and 1237.601 - Incorporates review threshold for above \$100,000 for Performance-Based Service Contracting (PBSC).
- al. 1237.106 - Deletes previous policy (COCO Alert 99-32).
- am. 1237.204 - Incorporates COCO delegations for advisory and assistance services.
- an. 1241.501 - Incorporates new subchapter regarding solicitation provision and contract clauses for utility services.
- ao. 1242.1 - Updates subchapter titles to FAR titles.
- ap. 1242.2 - Updates subchapter title to FAR title.
- aq. 1242.302-90 - Incorporates instructions for ACO delegations.
- ar. 1242.703-2 - Clarifies COCO delegation when using Certificate of Indirect Costs.
- as. 1242.70 - Incorporates Coast Guard's Contracting Officer's Technical Representative (COTR) Training policy at new Attachment A. (COCO Alert 00-10)

COMDTNOTE 4200

- at. 1246.704 - Incorporates new subchapter regarding authority to include warranty clause that exceeds the standard industry practice.

- au. 1246.710 - Incorporates new subchapter that establishes COCO levels approval for use of warranty contract clauses.
 - av. 1253 - Incorporates the new CG 5080, Small Business Review Form.
 - aw. Enclosure (3) - Incorporates FAR change to 12.303(b).
 - ax. Enclosure (9) - Changes enclosure to include updated practices and policies.
 - ay. Enclosure (11) - Deletes outdated form, which has been superceded by the DOT/DCAA MOU at TAM Subchapter 1242.
 - az. Enclosure (16) - Incorporates the revised reporting format for the RCRA report.
 - ba. Enclosure (17) - Corrects typographic error in the paragraph numbering, revises the wording of paragraph 3, and adds a space at the bottom of the form for the Contracting Officer's signature.
 - bb. Enclosure (18) - Changes to incorporate clarifications and comments received.
 - bc. Enclosure (22) - Incorporates new enclosure for Source Selection Procedures for Competitive Acquisitions Valued at less than \$20 million.
6. CORRECTIONS. Address comments, suggestions and corrections to Commandant (G-CPM-2).
7. PROCEDURES. Remove and Insert the pages as listed:

Remove	Insert
Table of Contents iii-v	Table of Contents iii-v, CH-1
Subchapter 1-1 thru 1-4	Subchapter 1-1 thru 1-4, CH-1
Subchapter 3-1	Subchapter 3-1, CH-1
Subchapter 4-1 thru 4-11	Subchapter 4-1 thru 4-12, CH-1
Subchapter 5-1 thru 5-2	Subchapter 5-1 thru 5-2, CH-1
Subchapter 7-1 thru 7-2	Subchapter 7-1, CH-1
Subchapter 8-1	Subchapter 8-1, CH-1
Subchapter 11-1	Subchapter 11-1 thru 11-2, CH-1
Subchapter 12-1	Subchapter 12-1, CH-1
Subchapter 14-1 thru 14-2	Subchapter 14-1 thru 14-2, CH-1

Subchapter 15-1 thru 15-2	Subchapter 15-1 thru 15-2, CH-1
Subchapter 15-5 thru 15-7	Subchapter 15-5 thru 15-8, CH-1
Subchapter 17-1 thru 17-8	Subchapter 17-1 thru 17-9, CH-1
Subchapter 19-1 thru 19-7	Subchapter 19-1 thru 19-7, CH-1

5

COMDTNOTE 4200

Subchapter 22-1 thru 22-3	Subchapter 22-1 thru 22-3, CH-1
Subchapter 28-1 thru 28-2	Subchapter 28-1 thru 28-2, CH-1
Subchapter 32-1 thru 32-4	Subchapter 32-1 thru 32-4, CH-1
Subchapter 32-7	Subchapter 32-7 thru 32-8, CH-1
Subchapter 36-1 thru 36-2	Subchapter 36-1 thru 36-2, CH-1
Subchapter 37-1 thru 37-2	Subchapter 37-1 thru 37-2, CH-1
Subchapter 41-1	Subchapter 41-1, CH-1
Subchapter 42-1 thru 42-4	Subchapter 42-1 thru 42-8, CH-1
Subchapter 46-1	Subchapter 46-1, CH-1
Subchapter 53-5 thru 53-6	Subchapter 53-5 thru 53-6, CH-1
Encl (3) pages 7-8	Encl (3) pages 7-8, CH-1
Encl (9)	Encl (9), CH-1
Encl (11)	Encl (11) Reserved, CH-1
Encl (16)	Encl (16), CH-1
Encl (17)	Encl (17), CH-1
Encl (18)	Encl (18), CH-1
	Encl (22), CH-1

8. FORMS AVAILABILITY. The revised edition of the form CG-5080, Small Business Review, is available in Jetform Filler.

/s/ W. H. CAMPBELL
Director of Finance and Procurement

Encl: (1) CH-1 to Coast Guard Acquisition Procedures (CGAP),
COMDTINST M4200.19F

Non-Standard Distribution

*B:c MLCLANT (60), MLCPAC (40);
B:i ELC (30);
C:a Sacramento (1);

C:d San Juan (1);
C:f Seattle (5), Norfolk (10);
C:k ISC Boston (8), ISC Cleveland (8), ISC St. Louis (8), ISC
Miami (8), ISC Portsmouth (8), ISC New Orleans (8), ISC
Alameda (8), ISC Kodiak (7), ISC Ketchikan (8), ISC San Pedro
(8), ISC Seattle (8), ISC Honolulu (8);
C:m M10, Europe (1);
C:v Lorsta Havre (1), Lorsta Fallon (1);
C:w Detroit (1);
C:x New Orleans (1), Honolulu (1), Portsmouth (1), Boston
(1), Seattle (1);
D:o DPSC Philadelphia (1);
G:c Port Security Unit 305 (1), Port Security Unit 308 (1),
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6

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OCT 13 1998
COMDTINST M4200.19F

COMMANDANT INSTRUCTION M4200.19F

Subj: COAST GUARD ACQUISITION PROCEDURES (CGAP)

1. PURPOSE. These procedures implement and supplement the Federal Acquisition Regulation (FAR), the Department of Transportation Acquisition Regulation (TAR), the Department of Transportation Acquisition Manual (TAM), and other departmental guidance; and establish Coast Guard acquisition policy. They are intended for the use of contracting personnel and others involved in the operation of acquiring supplies and services for the Coast Guard.

2. ACTION. Area and district commanders, commanders of maintenance and logistics commands, assistant commandants for directorates, commanding officers of headquarters units, Chief Counsel, and special offices at Headquarters shall ensure compliance with the provisions of this instruction.
3. DIRECTIVES AFFECTED. COMDTINST M4200.19E is cancelled.
4. DISCUSSION. The FAR system consists of the FAR which is the primary document and the TAR and TAM which supplement the FAR. The FAR system is a flow-down system that prohibits repeating, paraphrasing or otherwise restating material contained in the FAR, TAR, or TAM. Therefore, in order to fully understand the CGAP, the reader must review it in conjunction with the FAR, TAR, or TAM material it supplements. CGAP cites which supplement the TAR is subdivided into Parts and Subparts, and is found in the first subdivision of this manual. CGAP cites which supplement the TAM is subdivided into Chapters and Subchapters and is found in the second subdivision of this manual.
5. SUMMARY OF CHANGES. The reader of these procedures is cautioned that the changes may correspond to TAR part and subpart, or TAM chapter and subchapter, as applicable, and

COMDTINST M4200.19F

shall be read during the preparation of solicitations, contracts, and their supporting documentation. A summary of changes are as follows:

CHANGES WHICH IMPLEMENT THE TAR (CGAP PARTS & SUBPARTS)

- a. 1203.104-11 - Changes title and last two digits in the subpart number changes in the FAR.
- b. 1203.301 - Corrects title to align with the FAR.
- c. 1203.405 - Last digit of subpart number changed to reflect FAR numbering change.
- d. 1203.502-2 - Title changed to conform with FAR.

- e. 1203.806 - Subpart number changed to conform with FAR.
- f. 1217.1 - Deletes entire text. Coast Guard has multiyear contracting authority. FAR has recently been changed to reflect this.
- g. 1232 - Title and last two digits of the subpart number changed to reflect change in TAR.
- h. 1232.7002-90 - New subpart number added to reflect change in TAR.
- i. 1237.104-90 - Revises content to be consistent with new TAR 1237.104-90 and provides Head of the Contracting Activity (HCA) delegation.
- j. 1237.104-91 - Revises the highest rate amount payable for the annual compensation to an individual in any one year. Revises content to be consistent with new TAR 1237.104-91.
- k. 1237.104-92 - Provides minor editorial corrections and deletes paragraph (c).
- l. 1243.103 - Last two digits of subpart number added to reflect CG-specific policy for types of contract modifications.

CHANGES WHICH IMPLEMENT THE TAM (CGAP CHAPTERS & SUBCHAPTERS)

- m. 1201.602-390 (b) and (c) - Provides clarification for processing ratifications of unauthorized commitments.
- n. 1203.104-6 - Title changed to conform with FAR.
- o. 1203.104-6 (d) and (h) - Revises title of "procurement official."

COMDTINST M4200.19F

- p. 1203.104-8 - Certification requirements deleted in accordance with FAR.
- q. 1203.104-9 - Certification requirements deleted in accordance with FAR.
- r. 1203.104-9 (f) (2) - Submission of waiver to the Head of the Contracting Activity (HCA) under the Subchapter, shall be forwarded

via Commandant (G-CPM).

- s. 1203.104-12 - Certification requirements deleted in accordance with FAR.
- t. 1203.4 - Certification requirements deleted in accordance with FAR.
- u. 1204.601 - Includes current procedures and information regarding the Contract Information Systems (CIS).
- v. 1204.602 (c) - Deletes the first two sentences to align with revisions made in TAM Note 97-01. Revises the Appendix reference for the SF 281 from "E" to "D."
- w. 1204.602-7202(a)(5)(ii) - Revises the title for the ninth character of the PIIN.
- x. 1204.8 - Minor revision to subchapter title to align with FAR.
- y. 1204.802(b) - Revises the date of the CG 4788 from February 1994 to February 1998.
- z. 1204.7002(c)(1)(viii) - Clarifies legal counsel office requirements.
- aa. 1204.7002(c)(1)(xi) - Incorporates Chief of the Contracting Office (COCO) Alert 97-11, which adds another type of action to the list of exemptions.
- ab. 1204.7003(b)(2) - Incorporates COCO Alert 98-36, regarding legal reviews for acquisitions conducted under FAR Part 13.5.
- ac. 1204.7003(b)(1) - Corrects "should" to "shall."
- ad. 1204.9200 - Revises term "Supply Center" and "Defense Stock Point" to read "Inventory Control Point."
- ae. 1204.9300 - Revises term "Supply Center" and "Defense Stock Point" to read "Inventory Control Point."
- af. 1205.303 - Adds clarification of procurements exempt from announcements of the contract awards process.

- ag. 1206.302-1 - Last two digits of the subchapter number added to indicate CG-specific policy when only one source and no other supplies or services will satisfy agency requirements.
- ah. 1206.302-2 - Adds last two digits of the subchapter number to indicate CG-specific policy for procurement actions requiring approval under the authority of unusual and compelling urgency.
- ai. 1206.303-1 - Adds last two digits of the subchapter number to indicate CG-specific policy for class justifications.
approval under the authority of unusual and compelling urgency.
- aj. 1206.303-2 - Adds last digits of the subchapter number to indicate CG-specific policy for required content of justifications for other than full and open competition.
- ak. 1206.305-90 - Clarifies required content for justifications citing compelling and urgency.
than full and open competition.
- al. 1207.101-70(c) - Deletes applicability to APPs.
- am. 1207.105-71 - Deleted to align with TAM.
- an. 1208.7 - Minor revision to subchapter title to align with FAR.
- ao. 1209.405-1 - Revises FAR cite reference for HCA determination.
- ap. 1209.506 - Editorial change to paragraph designation.
- aq. 1211.02 - Adds last two digits in subchapter number to indicate CG-specific metric policy.
- ar. 1214.201-92 - Incorporates language promulgated in COCO Alert 97-03 on the prohibition of foreign ship repair for ships homeported in the United States.
- as. 1214.407 - Editorial changes to paragraph numbering. Formally numbered subchapters 1214.407, 1214.407-1, 1214.407-3, 1214.407-4, are revised to coincide with FAR numbering. Revises CGAP 1214.407-3(d) to provide HCA delegation to COCO Level 2.
- at. 1215.103 - Paragraph identifier deleted to align with FAR.
- au. 1215.201-90 - Title changed to align with FAR.

av. 1215.204 - Title changed to align with FAR.

COMDTINST M4200.19F

- aw. 1215.303-90 - Matrix provided to indicate Source Selection Authority.
- ax. 1215.303-91 - Procedures provided for routing Source Selection documents at Headquarters.
- ay. 1215.303-92 - Procedures provided for routing Source Selection documents for field.
- az. 1215.304 - Indicates how numerical weights are handled during evaluation of proposal.
- ba. 1215.305-90 - Guidance for Source Selection and proposal evaluation of commercial items.
- bb. 1215.306 - Provides clarification for exchanges with offerors after receipt of proposals.
- bc. 1215.403-1 - Clarification of prohibition of obtaining cost or pricing data.
- bd. 1215.403-4 - Provides clarification when requiring cost or pricing data.
- be. 1215.404-1 - Provides clarification for proposal analysis techniques.
- bf. 1215.404-290 - Provides clarification for requesting and handling audits or other field pricing reports.
- bg. 1215.404-4 - Provides clarification when cost analysis is required.
- bh. 1215.406-170 - Provides guidance for review of Prenegotiation Memorandum.
- bi. 1215.406-370 - Provides guidance on review of Price Negotiation Memorandum.
- bj. 1215.506-1 - Paragraph identifier deleted to align with FAR.

- bk. 1215.604-90 - Paragraph deleted. Updated information found in 1215.303-90.
- bl. 1215-612 - Paragraph deleted. Updated information found in 1215.303-90.
- bm. 1215.805-591 - Paragraph deleted. Information found in 1242.101.
- bn. 1215.810 - Paragraph deleted. See FAR 15.407-4.
- bo. 1217.204(e)(1) - Specifies that HCA approval to exceed a five-year contract period of performance is required via Commandant (G-CPM).

COMDTINST M4200.19F

- bp. 1217.504-91 - Correction to subchapter number.
- bq. 1217.9202 - Text deleted in its entirety. Coast Guard is no longer required to provide contracting assistance to Environmental Protection Agency (EPA) for oil spill cleanup.
- br. 1217.9203(d) - This change corrects a typographical error.
- bs. 1217.9204(e) - New paragraph added to facilitate uniformity in contracting procedures for oil spills.
- bt. 1217.9205 - This change promotes uniformity in contracting procedures for oil spills.
- bu. 1217.9207 - This change promotes uniformity in contracting procedures for oil spills.
- bv. 1219.202-270 - Adds information regarding procurement forecasts (formerly Annual Procurement Plans.)
- bw. 1219.202-590 - Incorporates Commandant Notice 4200 Ch-2 to CGAP, dated 30 September 1995.
- bx. 1219.704-70 - Adds a requirement to forward the first SF-294 and any original SF-295 received by the contracting officer to Commandant (G-CPM-S/1). Revises reporting requirement previously found at 1219.706-90.

- by. 1219.705-6 - Clarifies postaward responsibilities of the contracting officer regarding subcontracting plan information.
- bz. 1219.706-90 - Deletes use of Enclosure (10). Reporting requirement moved to 1219.704-70 to align with the TAM.
- ca. 1222.406-8 - Adds authority for COCO Level 1 involving labor investigation reports.
- cb. 1222.604-2(b)(1) - Realigns the CGAP cite with the revised FAR 1222.604-2(b)(1) cite.
- cc. 1222.608-2 through 1222.608-6 - Deletes these CGAP cites which were deleted in the revised FAR. Changes CGAP 1222.608-6(c) to CGAP Subchapter 1222.608(b) to align with the revised FAR.
- cd. 1222.805 - Removes delegation to COCO2, as TAM states authority is retained by HCA.
- ce. 1222.13 and 1222.14 - Incorporates subchapter titles to align with FAR.
- cf. 1223.4 - Adds new guidance on program office responsibility for recovered materials.

COMDTINST M4200.19F

- cg. 1225.402 - Adds new guidance on program office responsibility for recovered materials.
- ch. 1225.7 - Deletes text in its entirety to coincide with the FAR.
- ci. 1225.901 - Revises title and clarifies routing of documentation required by FAR 25.901(d).
- cj. 1226.90 - Updates reference to Executive Order.
- ck. 1232.114 - Adds last two digits of subchapter number and clarifies procedures for approval of unusual contract financing arrangements.
- cl. 1232.4 - Corrects title to coincide with the FAR.

- cm. 1232.703-90 - Policy incorporates setting forth procedures and responsibilities for antecedent liabilities.
- cn. 1232.703-3 - Delegates authority of agency head to contract crossing fiscal years to COCO Level 2, without further redelegation. This authority is further limited to procurements above the simplified acquisition threshold for handling antecedent liabilities.
- co. 1232.805 - Text deleted in its entirety.
- cp. 1233.103 - Paragraphs renumbered to align with FAR.
- cq. 1233.104 - Paragraphs renumbered to align with FAR.
- cr. 1236.213 and 1236.213(a) - Renumbered and retitled to align with FAR. Revises subparagraph (a) text to clarify the authority of the COCO to waive the requirement for presolicitation notices.
- cs. 1236.602-3 and 1236.603 - Revises list of delegated COCO level 2s.
- ct. 1237.104-90 - Incorporates TAM and CGAP cites for personal services authority.
- cu. 1237.106 - Adds delegation and limitations on the funding and term of service contracts.
- cv. 1237.112(f) - Adds new CGAP Subchapter 1237.112(f) to include Coast Guard guidance for the updated TAM Subchapter 1237.112(f) regarding the Office of Personnel Management authority delegations for private sector temporary services.
- cw. 1237.205 - Revises content to include Procurement Forecast information and procedures.

COMDTINST M4200.19F

- cx. 1237.290 - Removes previous collection information.
- cy. 1239.01-90 - Consolidated list of new locations for the Federal Information Resources Management Regulation (FIRMR) provisions is provided.

- cz. 1242.1 - Adds Interagency Contract Administration and Audit Services title.
- da. 1242.101(b) - Adds information on the DOT-DCAA MOU for interagency contract administration and audit services.
- db. 1242.1503(d) - Clarifies contents and provides additional requirements for automated contractor performance evaluation system.
- dc. 1246.601 - Subchapter heading deleted to align with TAM.
- dd. 1253.204-90(a) - Updates elements of the checklist which refer to procurement integrity.
- de. Enclosure (14) - Revises the information submitted on the Semi-Annual Labor Compliance Report.
- df. Enclosure (16) - Adds Resource Conservation and Recovery Act Report.
- dg. Enclosure (17) - New form, Requisitioner Determination, implemented in accordance with TAM 1223 for the Coast Guard's procurement preference program for recovered material.
- dh. Enclosure (18) - New Structured Source Selection Procedures for evaluating proposals and selecting sources for high dollar, competitively negotiated contracts.
- di. Enclosure (19) - New Prenegotiation Memorandum format for acquisitions over \$100,000.
- dj. Enclosure (20) - New Price Negotiation Memorandum format for acquisitions over \$100,000.
- dk. Enclosure (21) - New Pre/Price Negotiation Memorandum format for actions of \$100,000 or less.

/s/ W. H. CAMPBELL
Director of Finance and Procurement

Encl: (1) COMDTINST M4200.19F

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*Non-Standard Distribution

*B:c MLCLANT (60), MLCPAC (40);

B:i ELC (30);

C:a Sacramento (1);

C:d San Juan (1);

C:f Seattle (5), Norfolk (10);

C:k ISC Boston (8), ISC Cleveland (8), ISC St. Louis (8), ISC Miami (8),
ISC Portsmouth (8), ISC New Orleans (8), ISC Alameda (8), ISC Kodiak
(7), ISC Ketchikan (8), ISC San Pedro (8), ISC Seattle (8), ISC
Honolulu (8);

C:m M10, Europe (1);

C:v Lorsta Havre (1), Lorsta Fallon (1);

C:w Detroit (1);

C:x New Orleans (1), Honolulu (1), Portsmouth (1), Boston (1), Seattle
(1);

D:o DPSC Philadelphia (1);

G:c Port Security Unit 305 (1), Port Security Unit 308 (1), Port
Security Unit 311 (1);

OIG Baltimore (1)
City Crescent Building, Suite 4500
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Baltimore, MD 21201

DFELTON:G-CPM-2:SLG:ROOM 2606:71158:21OCT98:Instruction.doc/CGAP

COAST GUARD ACQUISITION PROCEDURES (CGAP)

Chapter	Title	Pages
GENERAL		
CGAP 1201	Coast Guard Acquisition Procedures System	1-1 to 1-4
CGAP 1202	Definitions of Words and Terms	2-1 to 2-3
CGAP 1203	Improper Business Practices and Personal Conflicts of Interest	3-1
CGAP 1204	Administrative Matters	4-1 to 4-12

COMPETITION AND ACQUISITION PLANNING

CGAP 1205	Publicizing Contract Actions	5-1 to 5-3
CGAP 1206	Competition Requirements	6-1 to 6-4
CGAP 1207	Acquisition Planning	7-1
CGAP 1208	Required Sources of Supplies and Services	8-1
CGAP 1209	Contractor Qualifications	9-1 to 9-8
CGAP 1210	Market Research	10-1
CGAP 1211	Describing the Agency Needs	11-1 to 11-2
CGAP 1212	Acquisition of Commercial Items	12-1

CONTRACTING METHODS AND CONTRACT TYPES

CGAP 1213	Simplified Acquisition Procedures	13-1
CGAP 1214	Sealed Bidding	14-1 to 14-6
CGAP 1215	Contracting by Negotiation	15-1 to 15-8
CGAP 1216	Types of Contracts	16-1
CGAP 1217	Special Contracting Methods	17-1 to 17-9
CGAP 1218	Reserved	No Supplement

SOCIOECONOMIC PROGRAMS

CGAP 1219	Small Business Programs	19-1 to 19-7
CGAP 1220	Reserved	No Supplement
CGAP 1221	Reserved	No Supplement
CGAP 1222	Application of Labor Laws to Government Acquisitions	22-1 to 22-3
CGAP 1223	Environment, Conservation, Occupational Safety, and Drug-Free Workplace	23-1 to 23-2
CGAP 1224	Protection of Privacy and Freedom of Information	No Supplement
CGAP 1225	Foreign Acquisition	25-1 to 25-2

CGAP 1226	Other Socioeconomic Programs	26-1 to 26-2
CGAP 1227	Patents, Data, and Copyrights	27-1 to 27-2
CGAP 1228	Bonds and Insurance	28-1 to 28-3

iii

CH-1

Chapter	Title	Pages
CGAP 1229	Taxes	29-1
CGAP 1230	Cost Accounting Standards	30-1
CGAP 1231	Contract Cost Principles and Procedures	No Supplement

GENERAL CONTRACTING REQUIREMENTS

CGAP 1232	Contract Financing	32-1 to 32-8
CGAP 1233	Protests, Disputes, and Appeals	33-1 to 33-7

SPECIAL CATEGORIES OF CONTRACTING

CGAP 1234	Major System Acquisition	No Supplement
CGAP 1235	Research and Development Contracting	35-1
CGAP 1236	Construction and Architect-Engineer Contracts	36-1 to 36-5
CGAP 1237	Service Contracting	37-1 to 37-2
CGAP 1238	Federal Supply Schedule Contracting	No Supplement
CGAP 1239	Acquisition of Information Resources	39-1 to 39-4
CGAP 1240	Reserved	No Supplement
CGAP 1241	Acquisition of Utility Services	41-1

CONTRACT MANAGEMENT

CGAP 1242	Contract Administration	42-1 to 42-8
CGAP 1243	Contract Modifications	43-1
CGAP 1244	Subcontracting Policies and Procedures	44-1
CGAP 1245	Government Property	45-1 to 45-2
CGAP 1246	Quality Assurance	46-1
CGAP 1247	Transportation	47-1
CGAP 1248	Value Engineering	48-1
CGAP 1249	Termination of Contracts	49-1 to 49-2
CGAP 1250	Extraordinary Contractual Actions	No Supplement
CGAP 1251	Use of Government Sources by Contractor	No Supplement

CLAUSES AND FORMS

CGAP 1252	Solicitation Provisions and Contract Clauses	No Supplement
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ENCLOSURES

Enclosure	Title	No. of Pages
Enclosure (1)	Reserved	1
Enclosure (2)	Format for Contract Payment Approval	1
CH-1	iv	
Enclosure	Title	No. of Pages
Enclosure (3)	A Guide to Acquisition of Commercial Items	9
Enclosure (4)	Pre-Planning Purchase Request Checklist	2
Enclosure (5)	Office of Management and Budget Policy Letter 81-1	2
Enclosure (6)	Checklist for Preventing Wasteful Year-End Spending	4
Enclosure (7)	Reserved	1
Enclosure (8)	Record of Review	1
Enclosure (9)	Acquisition Plan	2
Enclosure (10)	Format for Summary of SF 294 Reports	1
Enclosure (11)	Reserved	1
Enclosure (12)	Instructions for Processing Military Interdepartmental Purchase Requests	15
Enclosure (13)	Reserved	1
Enclosure (14)	Format and Instructions for Completing the Semi-Annual Labor Compliance Report	2
Enclosure (15)	Abolish Red Tape in Contracting (ARTIC)	3

Enclosure (16) Format for Resource Conservation and Recovery Act U.S. Coast Guard Command Summary Report	7
Enclosure (17) Requisitioner Determination	1
Enclosure (18) Structured Source Selection	28
Enclosure (19) Prenegotiation Memorandum (PM)	12
Enclosure (20) Price Negotiation Memorandum (PNM)	7
Enclosure (21) Pre/Price Negotiation Memorandum	2
Enclosure (22) Source Selection Procedures for Competitive Acquisitions Valued at Less than \$20 Million	22

COAST GUARD (CG) IMPLEMENTATION OF PHASE I OF THE DEPARTMENT OF TRANSPORTATION'S (DOT'S) PROCUREMENT REINVENTION LAB

1. PURPOSE. The purpose of this CGAP addition is to provide CG contracting personnel with implementation procedures for Phase I of DOT's reinvention laboratory as prescribed in Transportation Acquisition Manual (TAM NOTE) 95-03. Phase I of the reinvention lab gives contracting officials an opportunity to waive portions of the TAM by utilizing a simplified waiver process.

2. DEFINITIONS.

a. Innovative Strategies. Innovative idea that should be shared with others and is within the parameters of the FAR, TAR, and TAM.

b. Blanket Waiver. Waivers to the TAM that have been approved by the Senior Procurement Executive (SPE) for use by all Department of Transportation (DOT) contracting officers under the Procurement Reinvention Lab partnering agreement.

c. Targeted Waiver. Waiver to a specific TAM requirement. Targeted Waivers are recommended by individual contracting officers under the DOT procurement reinvention laboratory partnering agreement.

3. SUMMARY OF CGAP BLANKET WAIVERS. In response to TAM NOTE 95-03, the

Coast Guard waives CGAP requirements which correspond to TAM Chapters that have been designated for blanket waivers. When the blanket waiver is registered with the DOT reinvention lab, the coinciding CGAP subchapter requirements shall also be waived as applicable:

- a. 1204.7003(a), (b), and (c) - Addresses Coast Guard specific required approval levels for solicitations, contracts, contract modifications, and pre/post negotiation memoranda.
- b. 1204.7004 - States that all contract review comments and resolutions shall be in writing and included in every contract file.
- c. 1215.807(b) - Requires approval of prenegotiation memoranda (PM) by individual at least one level above the responsible contracting professional; note that use of this waiver still requires

vi

contracting officer signature on the PM.

- d. 1215.808(b) - Requires approval of price negotiation memoranda (PNM) by individual at least one level above the responsible contracting professional; note that use of this waiver still requires contracting officer signature on the PNM.
- e. 1203.104-5(d)(2)(ii)(a) - According to TAM 1203.104-5(d)(2)(ii)(A), when the contracting officer signs a purchase request under \$100,000 they are assuring that all procurement officials involved have executed a Procurement Integrity Certificate. The blanket waiver for this TAM Cite requires OAs to establish an alternate process for assuring that all procurement officials have completed Procurement Integrity Certification. For an activity to take advantage of this blanket waiver, you must include in the attached CG Checklist an indication of how the contracting officer will be assured that each procurement official has been certified in accordance with Federal Acquisition Regulation (FAR) 3.104-12(a)(2).

4. PROCEDURES.

- a. Blanket Waiver Registration. Coast Guard contracting officers are required to submit blanket waiver registrations to COMDT (G-CPM) via electronic mail to K. Strouss/G-CPM or FAX to (202) 267-4011. Blanket waivers will then be forwarded to the Office of Acquisition and Grant Management (OAGM) for submission in the reinvention lab.
- b. Targeted Waiver Registration. Prior to submission of an experimental targeted waiver, it is recommended that the contracting officer request assistance from Ms. Kathy Strouss of COMDT (G-CPM-3) at (202) 267-1170. Contracting Officer must submit the registration to COMDT (G-CPM) via electronic mail to K.Strouss/G-CPM or FAX to (202) 267-4011 for processing of waivers, as necessary. The target waiver will be forwarded to the OAGM where the SPE must provide signed approval prior to use.
- c. Legal review. If necessary, the contracting officer should obtain legal review from servicing counsel before submitting registrations.
- d. Registration Waivers. For the purpose of using a blanket waiver, waiving other CGAP requirements or other CG instructions, directives, notices, bulletins, relating to the experiment, the contracting officer shall complete the Coast Guard checklist at page ix of

vii

this notice. Local procurement office requirements such as instructions, notices, directives relating to the waived area shall also be waived.

- e. Interim and Final Activities Information. Coast Guard contracting officers are required to submit interim and final activities information via COMDT (G-CPM-3) for processing and monitoring, and transmittal to the OAGM.

viii

CG CHECKLIST OF DIRECTIVES EFFECTIVE BY DOT REINVENTION EXPERIMENT

Coast Guard Waivers to be granted as a result of the DOT
reinvention experiment are listed below:

A. Blanket Waivers - check CGAP reference which applies to the TAM blanket
waiver being registered.

_____ CGAP 1203.104-5(d)(2)(ii)(a)*

_____ CGAP 1204.7003(a), (b), and (c).

_____ CGAP 1204.7004

_____ CGAP 1215-807(b)

_____ CGAP 1215.808(b)

* If using this waiver, a description must be included on how the
contracting officer will be assured that each procurement official has
been certified in accordance with Federal Acquisition Regulation
(FAR) 3.104-12(a)(2).

B. Target Waivers - CG CGAP subchapters, instructions, directives, and
notices being waived as a result of a targeted TAM waiver are as
follows:

C. Other Information - record additional references or comments below
(This should include a discussion of waiver approval for other CG
instructions, notices, directives or bulletins from the appropriate
authority):

COAST GUARD ACQUISITION PROCEDURES (CGAP)

PARTS

1201 THROUGH 1253

CGAP SUBPART 1201.1 PURPOSE, AUTHORITY, ISSUANCE

CGAP SUBPART 1201.100 Scope of COMDTINST M4200.19 (Series), Coast Guard acquisition procedures (CGAP).

The CGAP details procedures internal to the operations of the Coast Guard in contracting for Coast Guard mission requirements.

CGAP SUBPART 1201.101 Purpose.

The purpose of the CGAP is to provide internal procedural guidance to overall policy outlined in the Federal Acquisition Regulation (FAR), the Transportation Acquisition Regulation (TAR), and the Transportation Acquisition Manual (TAM). The CGAP details the internal mechanisms through which the Coast Guard carries out overall contracting policies and procedures.

CGAP SUBPART 1201.103 Authority.

(a) The CGAP is prescribed pursuant to the authority of FAR 1.301(a)(2) and 14 U.S.C. 93(f). Except as otherwise set forth herein, the CGAP is not applicable to acquisitions involving housing.

(b) Certain FAR, TAR and TAM procurement authorities and responsibilities vested in the Commandant and other officials have been redelegated as cited in these procedures. Unless otherwise stated, these authorities may not be redelegated.

CGAP SUBPART 1201.104 Applicability.

The CGAP applies to all Coast Guard procurements for supplies, services, and construction. The CGAP is not applicable to acquisitions involving title to all lands and improvements and lesser interests nor to granting of easements, leases, licenses, and similar interests in real property. Any conflict or inconsistency between the FAR, TAR, TAM, and CGAP shall be resolved by giving precedence in the following order: (a) the FAR, (b) the TAR, (c) the TAM, and (d) the CGAP unless, the TAR, TAM or CGAP is more restrictive. Whenever the U. S. Coast Guard becomes an agency under the U. S. Navy by declaration of war or national emergency, the following applies:

(a) The Commandant would become a Head of the Contracting Activity (HCA) under the Department of the Navy. The U. S. Coast Guard would maintain the same dollar threshold levels with those actions previously requiring Office of the Secretary of

Transportation (OST) approval now being sent to the Office of the Secretary of Navy (OSN) for approval. All contracting warrants issued by the Coast Guard would remain in effect.

(b) The U. S. Coast Guard would discontinue using the Transportation Acquisition Regulation (TAR), Transportation Acquisition Manual (TAM) and Coast Guard Acquisition Procedures (CGAP) and begin using the Defense Federal Acquisition Regulation Supplement (DFARS) and Navy Acquisition Procedures Supplement (NAPS).

CGAP SUBPART 1201.105 Issuance.

CGAP SUBPART 1201.105-2 Arrangement of procedure.

(a) General. The CGAP is issued in loose leaf form to permit filing by subpart or subchapter after the last page of the corresponding FAR, TAR, or TAM subpart or subchapter. The CGAP conforms with the arrangement and numbering system prescribed by FAR 1.104.

(b) Numbering. All coverage in the CGAP that does not correspond to coverage in the FAR, TAR or TAM will use Subpart, Subchapter, Section or Subsection numbers 90-99.

CGAP SUBPART 1201.105-3 Copies.

Commandant (G-CPM) approves distribution of the CGAP to Coast Guard activities. Copies of the CGAP must be ordered per the instructions in COMDTNOTE 5600, Directives, Publications, Reports Index.

CGAP SUBPART 1201.106 OMB Approval under the Paperwork Reduction Act.

CGAP SUBPART 1201.106-90 Contracts requiring OMB approval of
information collection
requirements.

(a) Contracting officers receiving procurement requests involving the collection of information from ten or more members of the public shall contact the requiring activity regarding the requirements of HQINST 5214.13, Public-Use Reporting Requirements and Procedures.

(b) Requiring activities are responsible for submitting Standard Form

83, Request for OMB Review to Commandant (G-TPS). When the requiring activity receives a "Notification of Action" from the Office of Management and Budget (OMB) via Commandant (G-TPS), a copy shall be forwarded to the contracting officer so

1-2

that the contracting officer may proceed with award of the contract.

(c) If the solicitation is issued prior to OMB approval, the bid/offer acceptance period shall include enough time to allow a minimum of 60 days for approval by Commandant (G-TPS), OMB, and the Office of the Secretary.

(d) The contracting officer shall coordinate with the requiring activity with regard to the requirements of this section. The requiring activity shall communicate directly with Commandant (G-TPS).

CGAP SUBPART 1201.4 DEVIATIONS

A deviation to the CGAP is defined in the same manner as a deviation to the FAR.

1-3

CGAP PART 1202 DEFINITIONS OF WORDS AND TERMS

(RESERVED)

CGAP PART 1203 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

CGAP SUBPART 1203.1 SAFEGUARDS

CGAP SUBPART 1203.101-3 Agency regulations.

(b) All personnel cited under Enclosure (2) to COMDTINST 5370.9, Financial Disclosure Reports, shall have a current Confidential Financial

Disclosure Report, Standard Form (SF)450, (RCN 5370-2) on file in the office of the reviewing official.

CGAP SUBPART 1203.104-1 General.

Military and civilian personnel engaged in procurement activities, whether a contracting officer or not, shall be familiar with the statutory requirements of Section 27 of the Office of Federal Procurement Policy Act as amended, and as implemented by FAR 3.104.

CGAP SUBPART 1203.104-10 Violations or possible violations.

All references to duties and functions of the COCO in this subsection of TAR are delegated to the COCO either Level 1 or Level 2. All information forwarded to the HCA shall be forwarded via Commandant (G-CPM).

CGAP SUBPART 1203.2 CONTRACTOR GRATUITIES TO GOVERNMENT PERSONNEL

CGAP SUBPART 1203.203 Reporting suspected violations of the Gratuities clause.

(c) The report of suspected violations shall be forwarded by the COCO either Level 1 or Level 2 to Commandant (G-LPL) for review. The file shall contain the written opinion of the cognizant legal counsel for the contracting activity, if any. An information copy shall be provided to Commandant (G-CPM). Commandant (G-LPL) will forward the report to Office of the Inspector General (J-1) and will also furnish a copy to the Department of Justice, if appropriate.

CGAP SUBPART 1203.204 Treatment of violations.

All references to duties and functions of the COCO in this subsection of TAR are delegated to the COCO either Level 1 or Level 2.

3-1

CGAP SUBPART 1203.3 REPORTS OF SUSPECTED ANTITRUST VIOLATIONS

CGAP SUBPART 1203.301 General.

(b) The COCO either Level 1 or Level 2 shall prepare a written

findings of the facts of the case and submit the file, to Commandant (G-LPL) for review (Suspected Anti-Trust Violations -RCN-4200-4). The file shall contain the written opinion of the cognizant legal counsel for the contracting activity, if any. An information copy shall be provided to Commandant (G-CPM). After review, Commandant (G-LPL) will forward the findings to Office of the Inspector General (J-I) and will also furnish a copy to the Department of Justice, if appropriate.

CGAP SUBPART 1203.4 CONTINGENT FEES

CGAP SUBPART 1203.405 Misrepresentations or violations of the covenant against contingent fees.

(a) The COCO either Level 1 or Level 2 shall prepare a written findings of the facts of the case and submit the file, to Commandant (G-LPL) for review (Misrepresentations or Violations of the Covenant Against Contingent Fees - RCN-4200-5). The file shall contain the written opinion of the cognizant legal counsel for the contracting activity, if any. An information copy shall be provided to Commandant (G-CPM). After review, Commandant (G-LPL) will forward the findings to the Office of the Inspector General (J-I) and will also furnish a copy to the Department of Justice, if appropriate.

CGAP SUBPART 1203.5 OTHER IMPROPER BUSINESS PRACTICES

CGAP SUBPART 1203.502-2 General.

(g) Coast Guard personnel shall advise the cognizant COCO either Level 1 or Level 2, in writing, of any instances that come to their attention involving possible violations of the Anti-Kickback Act (41 U.S.C. 51-54). The COCO shall prepare a written findings of the facts of the case and submit the file to Commandant (G-LPL) for review (Anti-Kickback Report, RCN-4200-6). The file shall contain the written opinion of the cognizant legal counsel at the contracting activity, if any. An information copy shall be provided to Commandant (G-CPM). After review, Commandant (G-LPL) will forward the findings to the Office of the Inspector General (J-I) and will also furnish a copy to the Department of Justice, if appropriate.

CGAP SUBPART 1203.590 Suspected fraudulent or other criminal conduct.

Commandant Instruction 5520.5 (series), Investigative Assistance details actions to be taken in cases of suspected fraud or criminal conduct in the performance of Coast Guard contracts.

CGAP SUBPART 1203.8 LIMITATION ON THE PAYMENT OF FUNDS TO INFLUENCE FEDERAL TRANSACTIONS

CGAP SUBPART 1203.806 Processing suspected violations.

Suspected violations of the requirements of 31 U.S.C. 1352 shall be reported in accordance with the same procedures contained in CGAP Subparts 1203.203, .301, .405, and .502 above.

3-3

CGAP PART 1204 ADMINISTRATIVE MATTERS

(RESERVED)

CGAP PART 1205 PUBLICIZING CONTRACT ACTIONS

(RESERVED)

CGAP PART 1206 COMPETITION REQUIREMENTS

(RESERVED)

CGAP PART 1207 ACQUISITION PLANNING

(RESERVED)

CGAP PART 1208
REQUIRED SOURCES OF SUPPLIES AND SERVICES

(RESERVED)

CGAP PART 1209
CONTRACTOR QUALIFICATIONS

(RESERVED)

CGAP PART 1210
MARKET RESEARCH

(RESERVED)

CGAP PART 1211 DESCRIBING AGENCY NEEDS

CGAP SUBPART 1211.5 LIQUIDATED DAMAGES

CGAP SUBPART 1211.502 Policy.

If a liquidated damages clause is to be used in a contract, the contracting officer shall document the file addressing the elements of FAR 11.502(a) and FAR 11.502(b). This documentation shall include a discussion of the reasons for including a liquidated damages clause and the basis for determining the rate of liquidated damages. The contracting officer should obtain the advice of legal counsel. See CGAP Subchapter 1214.201-91 for liquidated damages under ship repair contracts.

CGAP SUBPART 1211.90 Bar coding requirement.

CGAP SUBPART 1211.9001 Applicability.

This subpart applies only to major systems acquisitions subject to

Transportation Acquisition Manual, Chapter 1215 Contracting by Negotiation, Subchapter 1215.6 Source Selection, and acquisitions initiated by Coast Guard Engineering Logistics Center (ELC) for material placed in operating inventory for sale to their customers.

CGAP SUBPART 1211.9002 Policy.

(a) Commandant Instruction 4000.4 (series), Standardized Bar Coding Within the Coast Guard for Logistics Applications, requires bar coding only when the project office identifies the need for bar coding in the procurement request, purchase description, or statement of work for supplies.

(b) In ELC noncompetitive acquisition of supplies and in ELC's purchases of supplies from small businesses, where the contractor does not have bar coding capabilities, the Coast Guard ELC simplified acquisition office is required by COMDTINST 4000.4 (series) to procure and produce the bar code labels, and physically attach them to the material upon receipt.

(c) When the amount of the acquisition is not expected to exceed the simplified acquisition threshold, the project office must provide the ELC contracting officer with the unit cost to the Coast Guard to separately procure, produce and physically attach bar coding labels to the supplies. The project office may contact Commandant (G-SLP) for their assistance in developing this cost, if necessary.

11-1

CGAP SUBPART 1211.9003 General.

(a) When the acquisition is expected to exceed the simplified acquisition threshold, sealed bids shall be considered to be nonresponsive and competitive proposals shall be considered to be technically unacceptable if the offeror(s) take exception to the bar coding requirement.

(b) When the ELC uses simplified acquisition procedures, quotations for supplies received from small businesses shall not be considered to be unacceptable due solely to the quoter's lack of a bar coding capability. In such situations, the cost for the Coast Guard to perform the bar coding requirement must be considered in order to determine price reasonableness.

11-2

CGAP PART 1212
ACQUISITION OF COMMERCIAL ITEMS

(RESERVED)

CGAP PART 1213
SIMPLIFIED ACQUISITION PROCEDURES

(RESERVED)

CGAP PART 1214
SEALED BIDDING

(RESERVED)

CGAP PART 1215
CONTRACTING BY NEGOTIATION

(RESERVED)

CGAP PART 1216 TYPES OF CONTRACTS

CGAP SUBPART 1216.5 INDEFINITE DELIVERY CONTRACTS

CGAP SUBPART 1216.505 Ordering.

(b) (4) The Assistant Competition Advocate is designated as the QA Task and Delivery Order Ombudsman, Commandant (G-CPM-S/3).

CGAP PART 1217 SPECIAL CONTRACTING METHODS

CGAP SUBPART 1217.2 OPTIONS

CGAP SUBPART 1217.203 Solicitations.

(g) (2) In unusual circumstances, the option quantities may exceed 50 percent of the initial quantity of the same contract line item. The authority to approve the unusual circumstance is the COCO Level 2.

CGAP SUBPART 1217.291 Options for reprourement data.

Solicitations for the initial buy or subsequent buys for equipment or systems requiring spare parts, shall, at a minimum, contain optional provisions for acquiring reprourement data to perform follow-on competitive acquisitions. If at any time during the acquisition cycle, a decision is made not to exercise an option for reprourement data, a copy of that decision and supporting data shall be forwarded to the Coast Guard Senior Competition Advocate, Commandant (G-CFP), through the Coast Guard Assistant Senior Competition Advocate, Commandant (G-CPM-S/3). The data should be submitted in time to allow for review and approval or disapproval before the date in which the option must be exercised expires. This requirement does not apply to acquisitions below the simplified acquisition threshold, purchases under Federal Supply Schedules, and purchases of equipment for which spare parts are available competitively in the open market.

CGAP SUBPART 1217.92 Contracting for containment and clean-up of oil and hazardous substances spills.

CGAP SUBPART 1217.9210 Clause.

Contracting officers shall include the following clause under Section H of all solicitations and contractual documents for the containment and cleanup of oil spills. Additional paragraphs may be added to the clause to include specific instructions, if appropriate.

SALVAGEABLE PRODUCTS

Salvageable products, and the proceeds derived from them, shall become the property of the government. If the substances recovered from cleanup and containment operations are salvageable, the Government may elect to have the contractor transport such recovered substances to a Government-specified storage site or directly to a commercial salvage company. If

the Government elects to have the contractor deliver the recovered substances to a commercial salvage company, the contractor shall obtain

17-1

receipts for payment and these payments shall be applied as a credit to the contract. If the balance of allowable contracts costs is less than the credit for recovered substances, the contractor shall reimburse the Government for the difference.

(end of clause)

17-2

CGAP PART 1218

(RESERVED)

CGAP PART 1219 SMALL BUSINESS PROGRAMS

CGAP SUBPART 1219.7 SUBCONTRACTING WITH SMALL BUSINESS,
SMALL DISADVANTAGED BUSINESS, AND WOMEN-
OWNED SMALL BUSINESS CONCERNS

CGAP SUBPART 1219.705 Responsibilities of the contracting
officer under the subcontracting
assistance program.

CGAP SUBPART 1219.705-2 Determining the need for a
subcontracting plan.

(c) The authority to approve the determination that there are no subcontracting opportunities is the COCO, Level 2.

19-1

CGAP PART 1220

LABOR SURPLUS AREA CONTRACTING

(RESERVED)

CGAP PART 1221

(RESERVED)

CGAP PART 1222 APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

CGAP SUBPART 1222.1 BASIC LABOR POLICIES

CGAP SUBPART 1222.101 Labor relations.

CGAP SUBPART 1222.101-70 Admittance of union representatives to DOT installations.

(b) Contracting activities shall submit the written report to Commandant (G-CPM), the designated labor advisor for Coast Guard acquisition matters.

22-1

CGAP PART 1223 ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

(RESERVED)

CGAP PART 1224 PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

(RESERVED)

CGAP PART 1225
FOREIGN ACQUISITION

(RESERVED)

CGAP PART 1226
OTHER SOCIOECONOMIC PROGRAMS

(RESERVED)

CGAP PART 1227
PATENTS, DATA, AND COPYRIGHTS

(RESERVED)

CGAP SUBPART 1228.90 Performance and payment bonds for
certain Coast Guard contracts.

CGAP SUBPART 1228.9001 Waiver.

(a) Pursuant to the authority vested in the Secretary of Transportation by the Act, the requirements of 40 U.S.C. 270(a) through 270(d) are waived, to the extent authorized in 40 U.S.C. 270(e), for (1) cost-plus-fixed fee and other cost-type contracts for the construction, alteration, or repair of any public building or public work of the United States, and (2) contracts for the manufacturing producing, furnishing, construction, alteration, repair, processing or assembling of vessels, aircraft, munitions, material, or supplies of any kind or nature for the Coast Guard regardless of the terms of the contracts as to payment or title.

(b) The requirements of the Miller Act are not generally necessary with respect to the classes of contracts described under CGAP 1228.9001(a) to protect the public, including the Government, material men, and

laborers. Because the Government would directly or indirectly bear the burden of premiums for performance and payment bonds obtained in connection with such contracts, a substantial savings can be made by waiving the requirement that they be obtained. However, unusual circumstances may arise in which either payment or performance bonds, or both, will be advantageous in connection with certain such contracts.

CGAP SUBPART 1228.9002 Exception.

A performance and payment bond for the contracts described under CGAP 1228.9001(a) may be advantageous in view of unusual circumstances arising in connection with such contracts. Requests for the authority to include the requirement for either a performance or payment bond, or both in the contracts described under CGAP 1228.9001(a) shall be submitted by the contracting officer to the Coast Guard Senior Competition Advocate, Commandant (G-CFP), before solicitation issuance.

28-1

CGAP PART 1229
TAXES

(RESERVED)

CGAP PART 1230
COST ACCOUNTING STANDARDS ADMINISTRATION

(RESERVED)

CGAP PART 1231
CONTRACT COST PRINCIPLES AND PROCEDURES

(RESERVED)

CGAP PART 1232 CONTRACT FINANCING

CGAP SUBPART 1232-70 Contract payments.

CGAP SUBPART 1232.7002-90 Appendix A, instructions for
completing the SF 1034.

For those contracting activities whose invoice payments are made by
the Coast Guard Finance Center, the contracting officer shall require the
contractor to insert the DAFIS number in block 4.

32-1

CGAP PART 1233
PROTESTS, DISPUTES, AND APPEALS

(RESERVED)

CGAP PART 1234
MAJOR SYSTEM ACQUISITION

(RESERVED)

CGAP PART 1235
RESEARCH AND DEVELOPMENT CONTRACTING

(RESERVED)

CGAP PART 1236
CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

(RESERVED)

CGAP PART 1237 SERVICE CONTRACTING

CGAP SUBPART 1237.1 SERVICES CONTRACTS

CGAP SUBPART 1237.104 Personal services contracts.

CGAP SUBPART 1237.104-90 Delegation of authority.

(b) This subpart prescribes policy and procedures to contract for direct (personal services) health care services authorized by 310 U.S.C. 1091 (a) to (c). This subpart does not preclude the acquisition of health care services by contract nor does it apply to nonpersonal services, both of which are authorized. The authority under TAR 1237.104-90 (b) and 1237.104-91 to procure personal health care services is delegated to contracting officers at the Maintenance and Logistics Commands Atlantic (fcp) and Pacific (fcp).

CGAP SUBPART 1237.104-91 Personal services contracts with individuals under the authority of 10 U.S.C. 1091.

(a) Direct (personal services) health care services are those services provided by health care providers who participate in clinical patient care and services (e.g., nurses, radiology technicians, dental hygienists, medical technologists, etc.). The services of personnel whose duties are predominantly administrative or clerical and personnel who provide maintenance or security services are not covered.

(g) By authority of 10 U.S.C. Section 1091(a), the Secretary of Transportation is authorized to contract with persons for services (including personal services) for the provision of direct health care services. The amount of the annual compensation paid to an individual in any one year shall not exceed a full-time equivalent rate of \$200,000 each year.

(k) As part of the documentation requirements of FAR 37.103(a)(1) and (3) and FAR 37.104(a), (b) and (e), contracting officers shall cite 10 U.S.C. 1091 as the authority to issue a personal service contract for health care services.

CGAP SUBPART 1237.104-92 Exemption, prohibition, and limitation.

(a) When contracting for personal services for health care services with individuals who are former federal employees, the contracting officer shall comply with the Federal Workforce Restructuring Act.

37-1

(b) Contracting officers shall consult Chapter 11, Commandant Instruction M6000.1 (series), Medical Manual for the limitations and prohibitions regarding funding, personnel eligibility, and payments under contracts for personal services for health care.

37-2

CGAP PART 1238
FEDERAL SUPPLY SCHEDULE CONTRACTING

(RESERVED)

CGAP PART 1239
ACQUISITION OF INFORMATION RESOURCES

(RESERVED)

CGAP PARTS 1240 AND 1241

(RESERVED)

CGAP PART 1242 CONTRACT ADMINISTRATION

CGAP SUBPART 1242.9 BANKRUPTCY

CGAP SUBPART 1242.902-90 Procedures.

Whenever the contracting officer is advised, either in writing or otherwise, that a contractor has entered proceedings relating to bankruptcy, the contracting officer shall seek advice of the cognizant legal office

as soon as possible.

42-1

CGAP PART 1243 CONTRACT MODIFICATIONS

CGAP SUBPART 1243.1 GENERAL

CGAP SUBPART 1243.103-90 Types of contract modifications.

A tripartite contract modification (the type of document preferred by the Small Business Administration offices) may be used to reflect agreements between the Small Business Administration, the Coast Guard, and the 8(a) contractor. The modification shall be placed in the official contract file.

43-1

CGAP PART 1244 SUBCONTRACTING POLICIES AND PROCEDURES

(RESERVED)

CGAP PART 1245 GOVERNMENT PROPERTY

CGAP SUBPART 1245.6 REPORTING, REDISTRIBUTION, AND DISPOSAL OF CONTRACTOR INVENTORY

CGAP SUBPART 1245.603 Disposal methods.

Contracting offices shall contact the local property office or Commandant (G-CFM) for assistance regarding property disposal.

45-1

CGAP PART 1246 QUALITY ASSURANCE

CGAP SUBPART 1246.7 WARRANTIES

CGAP SUBPART 1246.706 Warranty terms and conditions.

(b) For enforcement of major system acquisition warranty provisions, all major system acquisition contracts shall require written notice of warranty be attached to or furnished with the warranted item at time of delivery. Such written notice of warranty shall state (i) existence and substance of warranty, (ii) duration of warranty period, and (iii) contractor's point of contact (to be contacted only upon determination by the warranty manager that warranty enforcement is necessary).

CGAP SUBPART 1246.792 Waiver and notification Procedures. (USCG)

(b) Requests for waiver shall be signed by the Head of the Contracting Activity and shall be submitted through the COCO Level 2 with two copies of supporting documentation to Commandant (G-CPM) for processing to the HCA and M-60 for Secretarial approval at least 60 days prior to the anticipated award date. Contract award will not be made until the waiver is approved and Congressional notification is completed.

46-1

CGAP PART 1247 TRANSPORTATION

(RESERVED)

CGAP PART 1248 VALUE ENGINEERING

(RESERVED)

CGAP PART 1249 TERMINATION OF CONTRACTS

(RESERVED)

CGAP PART 1250 EXTRAORDINARY CONTRACTUAL ACTIONS

CGAP SUBPART 1250.3 CONTRACT ADJUSTMENTS

CGAP SUBPART 1250.305 Processing cases.

Commandant (G-LPL) is the contracting officer's designated representative for processing adjustments. The contracting officer shall transmit the contractor's request for adjustment as detailed in FAR 50.303 to Commandant (G-LPL). Commandant (G-LPL) shall compile the facts and evidence detailed in FAR 50.304, as necessary, and process the case as detailed in FAR 50.305 to the DOTBCA (S-20).

50-1

CGAP PART 1251 USE OF GOVERNMENT SOURCES BY CONTRACTORS

(RESERVED)

CGAP PART 1252 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

(RESERVED)

CGAP PART 1253 FORMS

(RESERVED)

COAST GUARD ACQUISITION PROCEDURES (CGAP)

CHAPTERS 1201 THROUGH 1253

CGAP CHAPTER 1201 COAST GUARD ACQUISITION PROCEDURES SYSTEM

CGAP SUBCHAPTER 1201.2 ADMINISTRATION

CGAP SUBCHAPTER 1201.201 Maintenance of the FAR.

CGAP SUBCHAPTER 1201.201-70 Submission of suggested changes.

(a) Suggested changes to the FAR, TAR, and TAM are to be forwarded to Commandant (G-CPM) for review and approval. Commandant (G-CPM) will transmit recommended changes to the SPE.

CGAP SUBCHAPTER 1201.4 DEVIATIONS

CGAP SUBCHAPTER 1201.403 Individual deviations.

Requests for individual deviations from the FAR, TAR, TAM and CGAP shall be submitted by the COCO either Level 1 or Level 2, to Commandant (G-CPM) for processing. Commandant (G-CPM) will coordinate the request with Commandant (G-LPL). Requests shall include the information required by TAM 1201.403. Commandant (G-CFP) is delegated the authority to approve individual deviations to the FAR, TAR, and TAM, and transmit the approved deviations to the Department of Transportation Senior Procurement Executive. Commandant (G-CPM) is the approving authority for individual deviations to the CGAP.

CGAP SUBCHAPTER 1201.404 Class deviations.

Requests for class deviations to the FAR, TAR, TAM, and CGAP shall be submitted by the COCO either Level 1 or Level 2, via appropriate channels to Commandant (G-CPM) for processing. Commandant (G-CPM) will coordinate the request with Commandant (G-LPL) as needed. Requests shall include the same type of information required by TAM 1201.403. Commandant (G-CPM) is the approving authority for class deviations to the CGAP, and will transmit requests for FAR, TAR, and TAM class deviations to the DOT Senior Procurement Executive for approval.

CGAP SUBCHAPTER 1201.490 Abolish Red Tape in Contracting

(ARTIC) Program.

The ARTIC program establishes policy and procedures for Coast Guard Contracting activities participation at Enclosure (15).

CGAP SUBCHAPTER 1201.6 CAREER DEVELOPMENT, CONTRACTING AUTHORITY AND RESPONSIBILITIES

CGAP SUBCHAPTER 1201.600-90 Scope of subchapter.

Commandant Instruction M4200.48 (series), Coast Guard Contracting Officer Warrant Program (COWP), establishes minimum standards and responsibilities for contracting officers.

1-1

CH-1

CGAP SUBCHAPTER 1201.602 Contracting Officers.

CGAP SUBCHAPTER 1201.602-2 Responsibilities.

The policy for the Coast Guard's selection, training and certification of COTRs is discussed in TAM 1242-70 and CGAP Subchapter 1242.70, Appendix A.

CGAP SUBCHAPTER 1201.602-390 Ratification of unauthorized commitments.

(a) Unauthorized commitments which do not meet FAR 1.602-3(c), Limitations, will not be approved. Commitments made by other than authorized personnel are considered a matter of serious misconduct. Consideration shall be given to initiating disciplinary action. The individual who made the unauthorized commitment may be held personally liable.

(b) In addition to the limitations in FAR 1.602-3(c), the individual who made the unauthorized commitment shall clearly provide the information in accordance with TAM 1201.602-3(c)(7), sign, date, and forward to the immediate supervisor.

The HCA has delegated the authority to approve or disapprove ratifications of unauthorized commitments up to \$2,500 to the COCO. All ratifications which exceed \$2,500 must be reviewed by local legal counsel for legal sufficiency and forwarded to the appropriate approving official. For Headquarters Units, this is the HCA.

For Formal Contracting, the HCA has also delegated authority as follows:

Commander, Maintenance and Logistics Command Atlantic (MLCLANT)(fcp) to ratify actions up to \$100,000 for its Area of Responsibility (AOR) including area afloat assets, and MLCLANT(vpl).

Commander, Maintenance and Logistics Command Pacific (MLCPAC)(fcp) to ratify actions up to \$100,000 for its AOR including area afloat assets, and MLCPAC (vpl); and

Chief, Office of Contract Support, (G-ACS) to ratify Headquarters actions up to \$100,000.

For Simplified Acquisitions, the HCA has delegated authority as follows:

Commander, MLCLANT (flp) to ratify actions up to \$50,000 for its AOR including area afloat assets, and MLCLANT (vpl); and

Commander, MLCPAC (fcp) to ratify actions up to \$50,000 for its AOR including area afloat assets, and MLCPAC (vpl).

CH-1

1-2

The HCA is the designated authority to approve or disapprove all other ratifications which exceed \$2,500 or which exceed the limits stipulated above. They should be forwarded to the HCA via Commandant (G-CPM) after being endorsed by the COCO.

(c) In addition, a report of all unauthorized commitments above \$2,500 shall be forwarded to Commandant (G-CPM) on a quarterly basis. The report shall include the Procurement Request number, dollar value, whether the unauthorized action was ratified, the date the unauthorized commitment occurred, and the date of the ratification. The report is due no later than the close of business on the 15th of January, March, July and October of the fiscal year (e.g., no later than 15 January for the quarter ending 31 December). Where applicable, reports shall be forwarded through the chain of command via the Commander, Maintenance and Logistics, Atlantic and Pacific.

(d) The contracting officer shall ensure that the information under TAM 1201.602-3(c)(7) is adequately addressed. The contracting officer shall return incomplete or incorrect data to the originator for corrective action. Within seven (7) working days of receipt of all

required information and legal review, if required, the contracting officer shall provide via appropriate channels, i.e., Commanding Officer, Deputy Office Chief, for consideration by the HCA, who is responsible for approving or disapproving the unauthorized commitment.

(e) The HCA shall render a final decision within 30 calendar days of receipt of the ratification request. Once a decision has been rendered, all documentation shall be forwarded to the appropriate contracting officer. If an unauthorized commitment is approved for ratification, a purchase order or other contract document for payment purposes shall be processed by the contracting officer. If an unauthorized commitment is disapproved for ratification (nonratifiable), the contracting officer shall promptly notify the individual who made the unauthorized commitment, in writing, stating the reasons for disapproval and recommending the individual obtain legal advice (reference FAR 1.602-3(d)). The contracting officer must also advise the individual that the nonratifiable commitment will not be paid in accordance with prescribed contracting methods of payment. In those cases where the action is a nonratifiable unauthorized commitment which involves the use of the IMPAC credit card or payment has already been effected via the SMART PAY program, the responsible individual may be billed or a pay adjustment authorization may be initiated.

(f) The contracting officer shall maintain a separate file containing a copy of each request for ratification and a record of the decision. The file shall also contain a copy of the purchase order if the request for ratification was approved. All such files will be maintained separate from other contract files for audit purposes.

1-3

CH-1

CGAP SUBCHAPTER 1201.690 Participation of legal counsel in The procurement process.

(a) It is Coast Guard policy that legal counsel participate fully in the entire procurement process from advance procurement planning to contract completion or termination, and closeout. The contracting officer shall review the applicable CGAP and corresponding FAR, TAR, and TAM citations to determine whether or not legal review is mandatory or recommended.

(b) Whenever legal review is mandatory or desired, the contracting officer shall include all supporting documents with the file forwarded for review. Coordination during the preparation of documents to

be submitted for legal review will minimize the review time.

(c) See CGAP Part 1203 for legal coordination on fraud and criminal conduct; CGAP Subchapter 1204.7003(b)(2) on legal reviews of contracting actions; CGAP Subchapter 1214.404-1(c) for legal review of cancellation of invitations after bid opening; CGAP Chapter 1227 for legal coordination on patents; CGAP Subchapter 1228.1 for legal advice on bonds and insurance; and CGAP Chapter 1233 for legal coordination on disputes and protests.

(d) The contracting officer may require legal review of any procurement action consistent with the availability of legal counsel; however, in addition to the requirements for legal review in FAR, TAR, TAM and CGAP, the following matters require consultation and coordination with legal counsel:

(1) Correspondence on procurement policy that requires the signature of the Commandant, Vice Commandant, Chief of Staff, MLC Commander, or the Superintendent of the Academy.

(2) Proposed procurement policy statements and procedures.

(3) The draft of a proposed new provision or clause.

(4) Questions of application of laws, interpretation of court precedence or conflicts in statutory or regulatory guidance. This includes procedural guidance which interprets or limits or expands such reviews/applications/interpretations.

(5) Legal counsel attendance at meetings in which contractor is represented by counsel.

(e) Legal review shall be requested orally or in writing through the chain of command, unless otherwise specified by local procedures

CH-1

1-4

CGAP CHAPTER 1202 DEFINITIONS OF WORDS AND TERMS

CGAP SUBCHAPTER 1202.1 DEFINITIONS

CGAP SUBCHAPTER 1202.101 Definitions.

(a) The Administration Acquisition Executive (AAE) for the Coast

Guard is the Vice Commandant (G-CV).

(c) Field contracting activity means all units/offices/branches that have contracting authority, excluding those at Coast Guard Headquarters.

(d) Headquarters means those offices, divisions or branches at Coast Guard Headquarters that have contracting authority.

(e) The Head of the Operating Administration (HOA) for the Coast Guard is the Commandant (G-C).

(f) For purposes of CGAP, Headquarters Unit means the following contracting activities:

(i) Superintendent, Coast Guard Academy, New London, Connecticut.

(ii) Commanding Officer, Coast Guard Aircraft Repair and Supply Center, Elizabeth City, North Carolina.

(iii) Commanding Officer, Coast Guard Air Station, Washington National Airport, Washington, D.C.

(iv) Commanding Officer, Coast Guard Atlantic Strike Team, Fort Dix, New Jersey.

(v) Commanding Officer, Coast Guard Aviation Technical Training Center, Elizabeth City, North Carolina.

(vi) Commanding Officer, Coast Guard Aviation Training Center, Mobile, Alabama.

(vii) Commanding Officer, Coast Guard Command and Control Engineering Center, Portsmouth, Virginia.

(viii) Commanding Officer, CG Engineering Logistics Center, Curtis Bay, Maryland

(ix) Commanding Officer, Coast Guard Finance Center, Chesapeake, Virginia.

(x) Commanding Officer, Coast Guard Fire and Safety Test Detachment, Mobile, Alabama.

(xi) Commanding Officer, Coast Guard Gulf Strike

Team, Mobile, Alabama.

(xii) Commanding Officer, Coast Guard Institute, Oklahoma City, Oklahoma.

(xiii) Commanding Officer, Coast Guard National Motor Lifeboat School, Ilwaco, Washington.

(xiv) Commanding Officer, Coast Guard National Pollution Funds Center, Arlington, Virginia.

(xv) Commanding Officer, Coast Guard National Strike Force Coordination Center, Elizabeth City, North Carolina.

(xvi) Commanding Officer, Coast Guard Operations Systems Center (OSC), Martinsburg, West Virginia

(xvii) Commanding Officer, Coast Guard Pacific Strike Team, Novato, California.

(xviii) Commanding Officer, Coast Guard Pay and Personnel Center, Topeka, Kansas.

(xix) Commanding Officer, Coast Guard Research and Development Center, Avery Point, Groton, Connecticut

(xx) Commanding Officer, Coast Guard Recruiting Command, Arlington, Virginia.

(xxi) Commanding Officer, Coast Guard Project Resident Office (PRO), Marinette, Wisconsin.

(xxii) Commanding Officer, Coast Guard Reserve Training Center, Yorktown, Virginia.

(xxiii) Commanding Officer, Coast Guard Telecommunication and Information Systems Center, Alexandria, Virginia.

(xxiv) Commanding Officer, Coast Guard Training Center, Cape May, New Jersey.

(xxv) Commanding Officer, Coast Guard Training Center,

Petaluma, California.

(xxvi) Commandant (G-HSC(a-3)), Coast Guard Headquarters, Washington, District of Columbia.

CGAP SUBCHAPTER 1202.170 Listing of HCAs and COCOs.

(a) Head of contracting activity (HCA) means the Director of Finance and Procurement, Commandant (G-CFP). In the absence of the HCA, Commandant (G-CPM) will perform the functions of the

2-2

HCA. In a few instances, where FAR, TAR, or TAM indicate a higher level of authority is required, Commandant (G-CPM) will forward the action to Commandant (G-CV) for consideration.

(b) The definitions in this subsection apply to the words and terms as used throughout these procedures unless, a different definition is defined in a particular chapter or portion of a chapter.

(1) Chief of the Contracting Office (COCO) Level 1 means the individual who has primary responsibility for the day-to-day management and control of the contracting activity, and whose contracting authority does not exceed any delegated simplified acquisition threshold established for that activity. COCOs Level 1 are those individuals appointed in writing by the Head of the Contracting Activity.

(2) Chief of the Contracting Office (COCO) Level 2 means the individual who has primary responsibility for the day-to-day management and control of the contracting activity, and whose contracting authority exceeds the simplified acquisition threshold levels. COCOs Level 2 are those individuals appointed in writing by the Head of the Contracting Activity.

2-3

CGAP CHAPTER 1203 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

CGAP SUBCHAPTER 1203.1 SAFEGUARDS

CGAP SUBCHAPTER 1203.104 Procurement Integrity

CGAP SUBCHAPTER 1203.104-6 Disqualification.

(b) Disqualification notice. For the Coast Guard, the authority of the HCA to receive from an agency official the written notice of disqualification from further participation in a procurement is delegated to the COCO level 2.

(c)(2) Resumption of participation in a procurement. The authority of the HCA to reinstate an agency official to participation in a procurement is delegated to the COCO Level 2.

3-1

CH-1

(d) (1) The authority of the head of the agency is delegated to the HCA.

(d) (2) In addition to the head of the agency, the authority to require additional certifications remains with the HCA.

(f) (2) The request for the waiver shall be submitted via Commandant (G-CPM) to the HCA.

CGAP SUBCHAPTER 1203.104-12 Ethics program training requirements.

(a) (1) Additional Procurement Integrity Training may be obtained through Commandant (G-LPL).

CGAP SUBCHAPTER 1203.4 CONTINGENT FEES

CGAP SUBCHAPTER 1203.409 Misrepresentations of violations of the Covenant Against Contingent Fees.

All references to duties and functions of the COCO in this section of TAM are delegated to the COCO either Level 1 or Level 2.

3-2

CGAP CHAPTER 1204 ADMINISTRATIVE MATTERS

CGAP SUBCHAPTER 1204.2 CONTRACT DISTRIBUTION

CGAP SUBCHAPTER 1204.203 Taxpayer identification information.

(b) For the Coast Guard, contracting officers shall ensure that the vendor/contractor Taxpayer Identification Number (TIN) appears on all the following documents, for Services, regardless of amount, before transmittal to the Finance Center for eventual payment:

(1) LUFS units: For Purchase Orders, Delivery Orders and Blanket Purchase Agreements, place the TIN in the TIN field portion of the vendor block (block 17a of the Standard Form (SF) 1449 or block 7 of the Optional Form (OF) 347). Although the field will not print on the SF 1449, it will be transmitted to FINCEN, where the data can be retrieved.

(2) Non-LUFS units: For Purchase Orders, Blanket Purchase Agreements, place the TIN in the Schedule Section (block 20 of the SF 1449 or block 17b of the OF 347).

(3) For Category II MIPRs going to other government agencies (OGA); and for all MIPRs originating from an OGA and coming to the Coast Guard if Coast Guard will pay the contractor and must be reimbursed by the OGA; place the TIN on the MIPR Acceptance DD Form 448-2, block 13.

CGAP SUBCHAPTER 1204.6 CONTRACT REPORTING

CGAP SUBCHAPTER 1204.601 Records requirements.

(a) Contracting offices shall ensure that the CIS data for procurement actions exceeding \$25,000 (to include task/delivery orders under Federal Supply Schedules or GSA schedules) are entered into the CIS no later than the 10th of the month following the month in which the action took place.

(d) The CIS Users Guide is available at the Department of Transportation's Acquisition and Grants Homepage website, <http://www.dot.gov/ost/m60/>.

(d)(2) CIS data entry should be accomplished via the on-line system in accordance with guidance provided by G-CPM-S/1. Contracting Officers unsure as to local procedures should contact their cognizant COCO. CIS shall be monitored by G-CPM-S/1 to ensure entries are made by contracting offices.

CGAP SUBCHAPTER 1204.602 Federal Procurement Data System.

(c) Contracting officers shall submit the DOT CIS Data Input form DOT F.4220.11 to the Department of Transportation office specified in TAM Chapter 1204. Contracting officers with access to the CIS on-line system shall not submit a hard copy of form DOT F 4220.11. The SF 281, Federal Procurement Data System (FPDS)-Summary Contract Action Report (\$25,000 or less) is submitted quarterly to Commandant (G-CPM/S-2) as established in TAM Chapter 1204, the CIS Users Guide and COMDTINST M4200.13 (series), Simplified Acquisition Handbook. These reports are recorded, summarized, and consolidated into one Coast Guard Report and sent to Director, Office of Acquisition and Grant Management (M-60). Activities shall ensure compliance with instructions at TAM Chapter 1204, the CIS Users Guide and COMDTINST M4200.13 (series), Chapter 12 for SF 281 submission. RCN-4200-12 applies. The CIS Users Guide is available at the Department of Transportation's Acquisition and Grants Homepage website, <http://www.dot.gov/ost/m60/>.

CGAP SUBCHAPTER 1204.602-72 Uniform procurement instrument identification numbering system.

CGAP SUBCHAPTER 1204.602-7201 Policy.

(b) This subchapter prescribes procedures for assigning identifying Procurement Instrument Identification Numbers (PIINs) to all contracts and other related instruments. This includes Supplementary PIINs for Coast Guard orders in accordance with TAM Subchapter 1204.602-72, except as specified below. Deviations to TAM subchapter 1204.602-72 and Coast Guard unique instructions are established at CGAP Subchapters 1204.602-7202 and 1204.602-7203.

CGAP SUBCHAPTER 1204.602-7202 The basic procurement instrument identification number.

(a) Elements of the PIIN.

(1)-(4) The first six positions shall be consistent with TAM Subchapter 1204.602-7202(1)-(3). Positions five and six shall be numeric or alphanumeric characters which uniquely identify the contracting activity preparing the instrument. A listing of applicable procurement office numbers, names, and addresses is contained in the CIS Users Guide.

Positions seven and eight shall be consistent with TAM Subchapter 1204.602-7202.

(5) The ninth position shall be a capital letter assigned to indicate the type of instrument code as established by TAM Subchapter 1204.602-7202, except as follows:

(i) A - Agreement: Use in accordance with TAM Subchapter 1204.602-7202(a)(5) except for those contracting activities

CH-1

4-2

subject to Departmental Accounting Finance Information System (DAFIS) accounting procedures and to invoice payment by the Coast Guard Finance Center. See CGAP Subchapter 1204.602-7202(a)(5)(iii) and (vi) involving an exclusion for Subsistence for Dining Facilities (Supply Fund AFC82) Blanket Purchase Agreements.

(ii) F - Delivery Orders: Use in accordance with TAM subchapter 1204.602-7202(a)(5) except for those contracting activities subject to DAFIS accounting procedures and to invoice payment by the Coast Guard Finance Center. See CGAP Subchapter 1204.602-7202(a)(5)(iii), (vii), and (viii) for orders with the Superintendent of Documents, Government Printing Office and Federal Prison Industries, Inc. (UNICOR). Also, see CGAP Subchapter 1204.604-7203.

(iii) P - Purchase Order: Use in accordance with TAM Subchapter 1204.602-7202(a)(5) except for those contracting activities subject to DAFIS accounting procedures and to invoice payment by the Coast Guard Finance Center. See conditions below for assignment of instrument codes N, T, V, W and Y. Use instrument code P in the ninth position if the conditions for use of N, T, V, W and Y do not apply.

(iv) N - Construction or Service purchase orders when using simplified acquisition procedures which require contracting officer approval for payments.

(v) T - Purchase orders for Transportation services when using simplified acquisition procedures.

(vi) V - Purchase Orders and Basic Purchase Agreements for Subsistence for Dining Facilities (Supply Fund AFC82).

(vii) W - Purchase orders for UNICOR.

(viii) Y - Purchase orders for the Superintendent of Documents, Government Printing Office

(6) Position ten through fourteen or fifteen.

(i) For those contracting activities not subject to invoice payment by the Coast Guard Finance Center, the tenth through fourteenth positions shall be numeric and serialized. PIINs for the contracting activity shall begin with the number 00001 at the start of each fiscal year. A contracting activity, however, may choose to use the first digit of the serial number to indicate a branch or division processing the instrument. The next four digits must then be serially numbered.

(ii) For those contracting activities subject to DAFIS accounting procedures and invoice payment by the Coast Guard

4-3

CH-1

Finance Center, the tenth through fifteenth positions shall incorporate part of the DAFIS document number to identify all instruments. The alphanumeric characters beginning with the Region or District and ending with the Serial Number shall constitute the tenth through fifteenth positions. An example of a DAFIS document number is:

24	94	23	4	H	PE	123	000
Doc	FY of	Procurement	FY	Region or	Program	Serial	Suffix
Type	Funding	Site (CIS)	Initial	District	Element	Number	
		Contract					
		Award					

Using the above DAFIS document number, a solicitation PIIN would be "DTCG23-94-B-HPE123" and the contract PIIN would be "DTCG23-94-C-HPE123."

CGAP SUBCHAPTER 1204.602-7203 Supplementary procurement instrument identification number, used in conjunction with basic PIIN.

(a) Coast Guard contracting activities shall use the following for assignment of supplementary numbers in conjunction with the basic PIIN:

(3) Orders.

(iii) The supplementary PIIN for orders in accordance with TAM Subchapter 1204.602-7203(a)(3)(i) and (ii) shall be as follows:

(A) For those contracting activities which are not subject to invoice payment by the Coast Guard Finance Center, the supplementary PIINs for the orders under contracts and agreements shall use a six position numeric serial number. The first two positions shall be the last two digits of the fiscal year when the order is placed, for example, the first two positions of an order placed in fiscal year 1994 would be 94. The last four positions shall be numbered sequentially each fiscal year beginning with 0001. An example of a supplementary PIIN for orders would be "94-0001."

(B) For contracting activities subject to DAFIS accounting procedures that are paid by the Coast Guard Finance Center, which place delivery/task order against other OA's contract or agreement, the supplementary PIIN for the delivery/task order must consist of fifteen positions as described at CGAP subchapter 1204.602-7202. The supplementary PIIN shall include an "F" in position nine and for position ten through fifteen, the six alphanumeric characters extracted from the DAFIS document number. The position ten through fifteen sequence shall begin with the Region or District and ending with the Serial Number (see the example at CGAP subchapter 1204.602-7202(a)(6)(ii) above). An example of the supplementary PIIN for orders would be "DTCG23-94-F-HPEI23."

CH-1

4-4

CGAP SUBCHAPTER 1204.670 Acquisition related reporting requirements.

Appendix A in TAM Subchapter 1204.670 is a listing of various acquisition related reporting requirements and their due dates to the Department of Transportation. For the submission due date to G-CPM or other special program offices, contracting activities shall comply with the affected CGAP subpart and subchapter requirements.

CGAP SUBCHAPTER 1204.8 GOVERNMENT CONTRACT FILES

CGAP SUBCHAPTER 1204.802 Contract files.

(c)(5) Contract file documents created and entered into the file after the fact, must be dated after the fact and annotated with rationale explaining why it was not done in a timely manner.

CGAP SUBCHAPTER 1204.70 Coast Guard Review and Approval
Requirements of Contracts and Contract
Related Documents.

CGAP SUBCHAPTER 1204.7000 Scope of subchapter.

This subchapter prescribes solicitation, negotiation memoranda and other contract/modification action review and approval requirements. Contracting Officers must also see CGAP Subchapter 1237.103(c) regarding review requirements for Performance-Based Service Contract actions, including solicitations, contracts and task orders.

CGAP SUBCHAPTER 1204.7001 Definitions.

(a) The "independent review" requirement at TAM Subchapter 1204.7001, Definitions, may be accomplished by a review of another Contract Specialist of equal or higher grade, or another Contracting Officer of equal warrant authority (dollar and contract type), for Coast Guard Chief of the Contracting Office (COCO) drafted documents or where COCO is the contracting officer responsible for the action. Independent review requirements for COCO drafted documents may be accomplished by those examples cited at TAM Subchapter 1204.7001(a) (e.g., a review board, a member of the policy staff, or another contracting officer of higher organizational equivalence.)

CGAP SUBCHAPTER 1204.7002 General Requirements.

(a) Independent reviews and approvals of solicitations, negotiation memoranda, contract awards and modifications must be completed prior to review by legal counsel and Commandant (G-CPM), when review and approval is also required in accordance with this subchapter.

(b) Commandant (G-CPM) review and approval procedures. This subchapter establishes Commandant (G-CPM) procedures for Prenegotiation and Price Negotiation memoranda; contract award; and contract modification review and approval to supplement TAM Subchapter 1204.70. Solicitation reviews are not subject to the reviews described in this subchapter, however Commandant (G-CFP) reserves the right to review any solicitation or contract at any time. Contracting activities may request assistance from Commandant (G-CPM) for any solicitation, prenegotiation or price negotiation memorandum, contract award or contract modification excluded from subchapter 1204.7002(c).

(c) Acquisitions valued over \$20 million shall be reviewed and approved by Commandant (G-CPM) prior to negotiations leading to a contract award or modification (including the definitization of a letter contract), except as noted in (1) Exemptions below. The \$20 Million dollar threshold amount is inclusive of options. For indefinite-delivery, Time-and-Material, Labor-Hour, or Letter contracts, the total estimated maximum amounts of the contract shall be used for determining the level of review and approval. Commandant (G-CPM) may impose lower threshold for reviews at an activity on a case-by-case basis.

ACTIONS OVER \$20 MILLION

APPROVAL AUTHORITY

NEGOTIATED PROCEDURES: Chief, Office of Procurement
PRENEGOTIATION MEMORANDA: Management
CONTRACT AWARDS, AND MODIFICATIONS:

Documentation Required when Submitting Prenegotiation Memorandum (PM) for Review: Prenegotiation Memorandum (Enclosure(19)) Request for Proposal; and Independent Review Comments and resolutions.

Documentation Required when Submitting Contract Award or Modification for reviews and approval: Price Negotiation Memorandum (PNM) (Enclosure(20)) Record of Review; all review comments and resolutions; and a copy of the proposed Contract award or modification.

(1) Exemptions. The following actions, excluding awards in the face of a protest, are exempt from review and approval, unless otherwise advised by Commandant (G-CPM):

(i) Actions to acquire utility services.

(ii) Actions under FAR Parts 8, 13, or 17.5.

(iii) Actions using Sealed Bidding, except after the decision is made to convert to negotiated procedures and the value of the action exceeds \$20 million.

(iv) Actions to increase or decrease funds per a contract price adjustment clause (e.g., economic price adjustment, wage determination adjustment).

(v) Actions to exercise priced options that were reviewed and approved, as required by this subchapter, under the original contract award.

(vi) Actions subject to the review and approval procedures in the Transportation Acquisition Manual (TAM) at Subchapter 1215.6--Source Selection.

(vii) Actions for oil spill clean-up services contracted for under the authority of FAR 6.302-2, Unusual and Compelling Urgency.

(viii) Modifications for any certified claim settlement are authorized where local legal counsel coordination and review is obtained. If local legal counsel is not available, claim settlement modifications shall be submitted to Commandant (G-LPL). The contracting officer shall verbally notify Commandant (G-CPM) of any claims settlements forwarded to Commandant (G-LPL). (Note: This exemption does not apply to those contract actions which are subject to Contract Review Boards under Commandant Instruction M4200.30 (series), Procurement Management Reviews.)

(ix) When a Contract Review Board has been established under Commandant Instruction M4200.30 (series), Procurement Management Reviews for contract modifications actions.

(x) Actions to place orders against existing contracts.

(xi) Acquisitions valued at \$20 million to \$50 million where the HCA has delegated SSO authority to the COCO Level 2, the contracting officer or other official.

(2) Procedures including request for waivers.

(i) The documentation required by this subchapter 1204.7002 shall be submitted when review by Commandant (G-CPM) is required. No proposed review action will be accepted without the supporting documents. Contracting officers are encouraged to call Commandant (G-CPM) to discuss what is to be sent on a proposed contractual action if the action includes voluminous records or documentation.

(ii) The Record of Review serves to document all reviews and approvals including legal, cognizant technical or program office contracting officer, and independent review and approval. The original of the Record of Review, Enclosure (8), shall be completed and signed by the appropriate officials when forwarding a contract award or modification action for Commandant (G-CPM) review and approval. By signing the record of review, the contracting officer and the level above Approval Official

certify

4-7

CH-1

that compliance with acquisition law, regulation, or CGAP have been accomplished and that all review comments have been resolved.

(iii) The contracting officer or COCO may request a waiver from the HCA through the Commandant (G-CPM) for the review and approval of the price negotiation memoranda and contract award or contract modification if all Prenegotiation memorandum objectives are met. This written request shall be placed on the Prenegotiation Memorandum (PM) found at Enclosure (19), as a recommendation, after the signature lines. The request for waiver of the Price Negotiation Memorandum and contract award or modification approval must clearly state that the basis for the waiver approval is applicable if all the prenegotiation objectives are met. Upon review by Commandant (G-CPM), if an action is conditionally approved by the HCA, the contracting officer shall include in the contract file a written determination that all corrections, deletions, additions or changes were resolved.

(3) Commandant (G-CPM) Review comments. The following requirements apply to prenegotiation and price negotiation memoranda, contract award and modification actions subject to review and approval procedures at CGAP Subchapter 1204.7002(c):

(i) The prenegotiation and price negotiation memoranda, contract award, and modification written review comments from Commandant (G-CPM) will state whether the comments are recommendations or mandatory (required by law, regulation, or CGAP). The contracting officer shall comply with all mandatory changes unless otherwise authorized by Commandant (G-CPM).

(ii) When the contracting officer rejects a recommendation made by Commandant (G-CPM), the contracting officer shall include rationale for the rejection in the contract file. The resolution of all comments shall be made prior to the action being taken. The resolution of comments and rationale for rejecting the recommendations made by Commandant (G-CPM), if any, shall also be placed in the contract file with the other review comments and record of review.

CGAP SUBCHAPTER 1204.7003 Review and approval procedures.

(b) Coordination with Technical/Program Office and Legal Reviews.

(1) Cognizant technical/program office. Contracting actions, i.e., solicitations and contract awards shall be reviewed by the cognizant technical/program office.

(2) Legal review and sufficiency. All Headquarters proposed solicitations and contractual actions valued at \$500,000 or more (including options not covered by subchapter 1204.7002(c)(l)(v)), shall be reviewed by legal counsel. For field contracting activities, the mandatory review level is \$100,000 which may be raised by the head of the reviewing legal office up to \$500,000 after obtaining Commandant (G-CPM) concurrence. Correspondence regarding legal review increases must be

CH-1

4-8

routed via Commandant (G-LPL). All letter contracts of any value shall be reviewed by legal counsel. This subchapter also applies to acquisitions conducted under FAR subpart 13.5, Test Program for Certain Commercial Items. Legal review is recommended at any value where the acquisition approach, industry comments, procurement history, or other factors indicate a likelihood of legal issues arising. Legal review is recommended in all actions to exclude offerors prior to award in negotiated procurements.

(c) For acquisitions valued over \$500,000, but below any required approval threshold in CGAP Subchapter 1204.7002(c), the level above approval for COCO drafted solicitations, contract awards, and contract modifications may be accomplished by a nonprocurement professional based on independent reviews requirements at TAM Subchapter 1204.7001 and CGAP Subchapter 1204.7001.

(3) Where the requirement at TAR Subpart 1204.103 and TAM Subchapter 1204.7003(c)(3) applies to contract award actions, the contracting officer shall ensure that the Approval of Contract clause at FAR 52.204-1 is incorporated in the solicitation and filled in as appropriate. For those award actions subject to the approval thresholds at CGAP subchapter 1204.7002(c), the Approval of Contract clause at FAR 52.204-1 shall be included in solicitations with the title of the appropriate approving official.

CGAP SUBCHAPTER 1204.7004 Procedural documentation requirements.

(a) All review comments and resolutions shall be in writing and

placed in the contract file. The contract record of review, enclosure (8) may be used for review and approval documentation for actions other than those reviewed and approved through Commandant (G-CPM) to meet the requirements of TAM subchapter 1204.7004(a). Enclosure (8) can be adapted or reformatted for local use on actions other than those reviewed and approved through Commandant (G-CPM).

CGAP SUBCHAPTER 1204.7005 Periodic compliance reviews.

Procurement Management Review (PMR) teams from Commandant (G-CPM) will review solicitations, other contractual actions, and the local written procedures at contracting activities. The Assistant Secretary for Administration, OST and Commandant (G-CPM) may at their discretion and at any time, review any proposed solicitation, prenegotiation or price memorandum, or contractual actions.

CGAP SUBCHAPTER 1204.8 GOVERNMENT CONTRACT FILES

CGAP SUBCHAPTER 1204.802 Contract files.

- (a) Each contract file should have at least four separate

4-9

CH-1

parts as follows: (1) Preaward, (2) Contract and/or Modification(s), (3) Postaward Correspondence, and (4) Deliveries, Payments, and Receipts.

- (b) Coast Guard Form CG-4788, Contract File Content Checklist-Preaward Contract File (February 1998 Revision), shall be used for organizing the preaward portion of the contract files. It may also be used for modifications.

CGAP SUBCHAPTER 1204.9 TAXPAYER IDENTIFICATION NUMBER INFORMATION

CGAP SUBCHAPTER 1204.903 Reporting contract information to the IRS.

- (b)(1) For the Coast Guard, notwithstanding the fact that the new requirement applies to payments for services over \$600.00, contracting officers shall ensure that all applicable purchase orders/delivery orders, BPAs and MIPRs regardless of amount, contain the contractor's TIN in accordance with CGAP 1204.203(b).

CGAP SUBCHAPTER 1204.905 Solicitation provision.

In addition to the collection of the Taxpayer information provided by the contractor at FAR 52.204-3, the contracting officer shall ensure that procedures at CGAP Subchapter 1204.2 and 1204.903 are followed.

CGAP SUBCHAPTER 1204.90 Internal Controls.

Commandant Instruction M5700.8 (series), Internal Control Systems Program, details Coast Guard policies and procedures concerning assessment of internal control systems.

CGAP SUBCHAPTER 1204.91 Prevention of Wasteful Year-end Spending.

(a) Contracting activities are required to implement and comply with the management controls directed in the Office of Federal procurement Policy (OFPP) Policy Letter 81-1, shown as enclosure (5) to these procedures, and to apply the Checklist for Preventing Wasteful Year-End Spending, shown as enclosure (6) to these procedures, uniformly at all levels.

(b) Contracting activities shall publish cut-off dates mandated by paragraph 1 of OFPP Policy Letter 81-1 based on established leadtimes for different classes of products and services procured by that activity. Activities shall attempt to minimize the number of cut-off dates published, using broad categories of products and services, dollar value of services and products, or type of procurement methods as the means for establishing these dates each year. These dates shall be publicized no later than March 1 of each year. Activities with high dollar and/or complex requirements may find it necessary to publish cut-off dates earlier than March 1. The publicity contemplated by this paragraph can be

CH-1

4-10

a notice in a publication received by its requiring offices, notices sent directly to its requiring offices, or some other reasonable means of communicating these dates. The activity shall document its means of publicizing cut-off dates.

CGAP SUBCHAPTER 1204.92 Use of Procurement Instrument Identification (PII) Numbers.

CGAP SUBCHAPTER 1204.9200 Scope of subchapter.

This subchapter prescribes procedures to be used by contracting activities when procuring material for a Coast Guard Inventory Control Point with the consignee of the material being Department of Defense Inventory Control Points.

CGAP SUBCHAPTER 1204.9201 Definitions.

A Procurement Instrument Identification (PII) Number is a 13-character number described in Subpart 204.70 of the Department of Defense FAR Supplement.

CGAP SUBCHAPTER 1204.9202 Policy.

When ordering material for a Coast Guard Inventory Control Point (see CGAP Subchapter 1204.9200) with the consignee of the material being Department of Defense (DOD) Inventory Control Points, it is necessary that the DOD facility be able to properly identify and process the Coast Guard material. Contracting activities shall use a PII Number as prescribed in this subchapter to accomplish effective material handling.

CGAP SUBCHAPTER 1204.9203 Procedure.

(a) Coast Guard contracts and purchase orders shall contain a Department of Defense (DOD) thirteen-character PII number in addition to, and immediately above, the document's Coast Guard contract or purchase order number, the Procurement Instrument Identification Number (PIIN) which is described in CGAP Subchapter 1204.602-72 and TAM Subchapter 1204.602-72. The thirteen-character number shall be immediately preceded by "PII Number." A copy of the contract or purchase order shall be forwarded to the applicable Coast Guard Inventory Control Point.

(b) The contract or purchase order shall stipulate that all shipping containers and contractor documentation must contain the DOD "PII Number."

(c) PII Numbers required by the circumstances prescribed at CGAP Subchapter 1204.9202 shall be developed based upon the PIIN described in CGAP Subchapter 1204.602-72, deleting the first character of the five-position numeric serial number or deleting the first and second characters of the six-position alpha-numeric DAFIS serial number.

(d) The DOD PII Number for the fourteen-character Coast Guard contract PIIN DTCG4O-94-C-00123, for example, would be: DTCG4O-94-C-0123

(1) The first four positions of this field shall always be "DTCG" for the Department of Transportation, U. S. Coast Guard. The fifth and sixth positions shall be numeric characters which uniquely identify the contract activity preparing the instrument.

(2) The seventh and eighth positions represent the last two digits of the fiscal year in which the contract is awarded.

(3) The ninth position represents the instrument code. See CGAP Subchapter 1204.602-72.

(4) The tenth through thirteenth positions are the serial numbers of the contract or purchase order. The serial number shall be adjusted one space to the right. See CGAP Subchapter 1204.9203(d).

(e) The PII Number for the fifteen-character Coast Guard contract PIIN DTCG23-94-C-HPEI23, for example, would be: DTCG23-94-C-E123

(1) The first through ninth positions are established as described in CGAP Subchapter 1204.9203(d)(l) through (3).

(2) The tenth through thirteenth positions are the serial numbers of the contract or purchase order. The serial number shall be adjusted two spaces to the right

CH-1

4-12

CGAP CHAPTER 1205 PUBLICIZING CONTRACT ACTIONS

CGAP SUBCHAPTER 1205.2 SYNOPSES OF PROPOSED CONTRACTS ACTIONS

CGAP SUBCHAPTER 1205.202 Exceptions.

(a) The contracting officer determination required by FAR 5.202(a) must be in writing and placed in the contract file, unless documented elsewhere in the contract file (e.g., justification for other than full and open competition, prenegotiation memorandum, price negotiation memorandum.)

(b) When FAR 5.202(b) is applicable, the contracting officer

shall contact the Small Business Program Officer, Commandant (G-CPM/S-I), to coordinate notification to the Administrator for Federal Procurement Policy and to the Administrator of the Small Business Administration.

CGAP SUBCHAPTER 1205.3 SYNOPSES OF CONTRACT AWARDS

CGAP SUBCHAPTER 1205.303 Announcement of contract awards.

(a) Public Announcement. The requirements of this subchapter do not apply to awards under the 8(a) program or Javits-Wagner O'Day Act. The contracting officer shall complete DOT F 4220.41, Contract Award Notification, to satisfy the requirements of TAM 1205.303. The form shall be processed as follows:

(1) When the proposed contract award requires review and approval at the Headquarters level, the original and two copies of DOT F 4220.41 shall be submitted to Commandant (G-CPM) with the proposed contract award package. Commandant (G-CPM) will forward the original to the Assistant Secretary for Governmental Affairs, OST, DOT (I-1) and one copy each to Commandant (G-ICA) and Commandant (G-IPA). When delay in award of the contract action will result in serious injury (financial or otherwise) to the Coast Guard, the details of such urgency and the required date of award shall be included with the award package. Under urgent and compelling circumstances, Commandant (G-CPM) will transmit the form or give telephonic notification to DOT (I-1) for approval of release of the award. Commandant (G-CPM) will notify the contracting officer after release is authorized by DOT.

(2) When the value of the proposed contract award is at least \$3 million but review and approval at the Headquarters level is not required, the contracting officer shall mail the original copy of the form directly to the DOT (I-1) or transmit via telefax (202-366-3675) and send one copy each to Commandant (G-ICA) and Commandant (G-IPA). Receipt of FAX to DOT (I-1) may be confirmed by calling 202-366-9714. When delay in

award of the contract action would result in serious injury (financial or otherwise) to the Coast Guard, the contracting officer shall provide the information required by the form to DOT (I-1) telephonically, concurrent with the award notice to the contractor. The telephonic approval shall be documented on the form and placed in the contract file, and one copy each of the documented form shall be mailed to Commandant (G-ICA) and Commandant (G-IPA).

CGAP SUBCHAPTER 1205.4 RELEASE OF INFORMATION

CGAP SUBCHAPTER 1205.403 Requests from Members of Congress.

(a) Individual requests. The contracting officer shall refer to COMDTINST M5260.2 (series), Privacy and Freedom of Information Acts, when preparing a response that would result in disclosure of business confidential information.

(b) The contracting officer shall comply with the security requirements under TAM 1204.4 regarding the release of classified information.

CGAP SUBCHAPTER 1205.404 Release of long-range acquisition estimates.

CGAP SUBCHAPTER 1205.404-1 Release procedures.

(a)and(b) The authority to release long-range acquisition estimates (excluding classified information), if the information will meet the requirements of FAR 5.404-1, is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1205.5 PAID ADVERTISEMENTS

CGAP SUBCHAPTER 1205.502 Authority.

(a) Newspapers. The authority to approve publication of paid advertisements in newspapers is delegated to the COCO either Level 1 or Level 2.

CGAP SUBCHAPTER 1205.504 Use of advertising agencies.

In addition to the requirements in FAR 5.504, the contracting officer may acquire advertising placement services through local advertising agencies only when no national Coast Guard contract exists for the requirement. The technical representative for national contracts for recruitment advertising is Commander (CGPC-c), Coast Guard Personnel Command.

CH-1

5-2

CGAP SUBCHAPTER 1205.590 Advertising for recruiting purposes.

In addition to the approval required by CGAP Subchapter 1205.502(a), the contracting officer shall ensure the requester obtains approval from Commander (CGPC-c), Coast Guard Personnel Command, to recruit, through paid advertisements, service and cadet applicants. Approval from Commander (CGPC-c) is not required when recruiting through paid advertisements in the local newspaper.

5-3

CGAP CHAPTER 1206 COMPETITION REQUIREMENTS

CGAP SUBCHAPTER 1206.3 OTHER THAN FULL AND OPEN COMPETITION

CGAP SUBCHAPTER 1206.302-190 Only one responsible source and no other supplies or services will satisfy agency requirements.

(b) (4) The Coast Guard's Standardization Program and procedures for obtaining the HCA determination may be found in COMDTINST 4200.38, Coast Guard Standardization Program.

(c) Acquisitions containing one or more brand name descriptions incidental to the requirement are not sole source acquisitions, provided that the total value of the incidental items is not greater than 50% of the total value of the primary product or service being bought. However, the use of such incidental brand name requirements shall be justified and approved in accordance with FAR 6.303 and 6.304 (as supplemented by CGAP 1206.303 and 1206.304). In those cases when a Justification for Other Than Full and Open Competition (JOTFOC) is required to cover incidental items, the estimated value of the incidental items determines the approval level of the JOTFOC.

CGAP SUBCHAPTER 1206.302-290 Unusual and compelling urgency.

Procurement actions requiring approval at the Headquarters or OST level, under the authority of "unusual and compelling urgency," shall not be processed PRIOR to initiation of the following:

(1) immediate verbal notification to Procuring Activity Competition Advocate (PACA) of the urgency;

(2) express mailing by the General Services Administration's mandatory contractor or telefax submissions to PACA of an ADVANCE justification and supporting rationale (including reference to the normal procurement lead time vs. an expedited lead time, why the circumstances are NOT attributable to a lack of planning, and what harm the Government will experience if the normal procurement lead times are met).

(3) receipt of preliminary authorization to proceed from PACA.

(4) within ten (10) calendar days of issuance of a contract that has been awarded pursuant to preliminary authorization, a formal written request for approval as required by FAR Part 6 shall be submitted to Commandant (G-CPM-S/3). The formal justification shall be written in the past tense, describing what took place rather than what was proposed, and shall include the date that preliminary authorization was granted. In addition, if contract award and approval of the

6-1

formal justification cannot be accomplished within thirty (30) calendar days after preliminary authorization to proceed, the contracting officer shall notify Commandant (G-CPM-S/3).

CGAP SUBCHAPTER 1206.302-7 Public interest.

(a) Requests for a Secretarial determination under this authority shall be submitted through Commandant (G-CPM-S/3).

CGAP SUBCHAPTER 1206.303-190 Requirements.

(c) Coast Guard class justifications shall be written by Commandant (G-CPM), and will normally be applicable to the conditions cited in CGAP 1206.302-1(b)(4). Contracting activities who identify a need for class justifications shall contact Commandant (G-CPM). Individual deviations to this paragraph may be granted per CGAP Subpart 1201.4.

CGAP SUBCHAPTER 1206.303-290 Content.

(a) (6) Unless an exception under FAR 5.202 applies, a justification for other than full and open competition requiring approval per CGAP 1206.304(a), shall not:

(i) be dated by the contracting officer and submitted for

processing earlier than fifteen (15) days after the CBD publication date;

(ii) be submitted prior to the complete resolution of all inquiries, as a result of CBD notices and/or other legitimate inquiries; and,

(iii) be accompanied by a "sources-sought" notice, in lieu of a CBD notice for a specific requirement.

CGAP SUBCHAPTER 1206.304 Approval of the justification.

(a) The following approvals are required for Justifications for Other than Full and Open Competition:

Amount	Approving Authority(s)
Not exceeding \$500,000	The contracting officer's certification required by FAR 6.303-2(a)(12).
Over \$500,000 to \$1 Million	Deputy MLC Commander (LANT) for LANT area actions only.

6-2

Over \$500,000 to \$1 Million	Deputy MLC Commander (PAC) for PAC area actions only.
Over \$500,000 to \$10 Million	Commandant (G-CPM-S/3) for HQ and HQ units.
Other actions up to \$50 Million	Head of the Contracting Activity.
Over \$50 Million	Head of Contracting Activity and the Vice Commandant and the Senior Procurement Executive.

CGAP SUBCHAPTER 1206.305 Availability of the justification.

CGAP SUBCHAPTER 1206.305-90 Justification copies and reviews.

(a) A copy of each approved justification for procurements not

exceeding \$500,000 shall be forwarded, along with a copy of the Commerce Business Daily Synopsis or document containing waiver of synopsis, for after the fact review to the Coast Guard Senior Competition Advocate through the Competition Advocate Assistant, Commandant (G-CPM-S/3), within ten working days of approval. All justifications citing Unusual and Compelling Urgency shall be written in the past tense, describing what was done rather than what was proposed.

(b) All justifications requiring review and approval at the Headquarters or OST level shall be submitted to Commandant (G-CPM-S/3) with a copy of the Commerce Business Daily synopsis or the waiver of synopsis.

(c) All justifications, regardless of the approval required, shall be submitted to Commandant (G-CPM-S/3) through the activity competition advocate, if one has been appointed.

CGAP SUBCHAPTER 1206.5 COMPETITION ADVOCATES.

CGAP SUBCHAPTER 1206.501 Requirement.

The Coast Guard Senior Competition Advocate is the Director of Finance and Procurement, Commandant (G-CFP).

CGAP SUBCHAPTER 1206.502 Duties and responsibilities.

CGAP SUBCHAPTER 1206.502-90 Additional duties and responsibilities of the Coast Guard Senior Competition Advocate.

6-3

In addition to the duties of the Competition Advocate listed under FAR Part 6.502, the Coast Guard Senior Competition Advocate shall review and approve or disapprove written decisions not to exercise options for procurement data (see CGAP Subpart 1217.291).

CGAP SUBCHAPTER 1206.502-91 Additional duties and Responsibilities of the Activity Competition Advocate.

In addition to duties listed under FAR 6.502, the Activity Competition Advocate shall be responsible for those duties as described in individual

appointment letters.

CGAP SUBCHAPTER 1206.502-92 Duties and Responsibilities of
the COCO Level 2 under the
Competition Advocate Program.

The COCO Level 2 shall review and identify programs and make recommendations to the Coast Guard Senior Competition Advocate regarding improvements to full and open competition for their office. The COCO Level 2 is responsible for the prompt implementation of agency directives and compliance with reporting requirements.

CGAP SUBCHAPTER 1206.570 Procuring Activity Competition
Advocate.

(a) Definition

The Activity Competition Advocates are as follows:

- (1) MLC (LANT) - Deputy Commander (md). (LANT area actions only).
- (2) MLC (PAC) - Deputy Commander (md). (PACA area actions only).
- (3) Commandant (G-CPM-S/3) (HQ and HQ units).

All contracting activities shall direct correspondence and inquiries concerning the Coast Guard Competition Advocate Program to their respective Activity Competition Advocate, if one has been appointed. Correspondence or inquiries to the Senior Competition Advocate shall be addressed to Commandant (G-CPM-S/3).

CGAP CHAPTER 1207 ACQUISITION PLANNING

CGAP SUBCHAPTER 1207.1 ACQUISITION PLANS

CGAP SUBCHAPTER 1207.101-70 Applicability.

(a) For acquisitions over the simplified acquisition threshold to \$5 million, the requirements at CGAP Subchapter 1219.202-270, Procurement Forecast, and below at CGAP Subchapter 1207.101-90 satisfy the requirement

for acquisition planning.

(b) A streamlined acquisition plan shall be used for acquisitions over \$5 million but less than \$50 million.

CGAP SUBCHAPTER 1207.101-90 Acquisition Plans - Over
simplified acquisition threshold
to \$5 million.

(a) General. The COCO Level 2 shall establish written procedures for developing, approving, and updating acquisition plans for acquisitions valued (including options) over the simplified acquisition threshold to \$5 million.

(b) Content & Format. An acquisition plan must contain a plan of action that at a minimum includes milestones for the acquisition cycle. However, more complex and higher dollar value acquisitions may require additional detail for each applicable milestone. Enclosure (9) is a guide for developing acquisition plans and will suffice as an acquisition plan, where applicable, for acquisitions over the simplified acquisition threshold to \$5 million.

(c) File Documentation. Approved acquisition plans and updates shall be retained in the appropriate part of the contract file.

CGAP SUBCHAPTER 1207.171 Update, approval, and
distribution procedures for
streamlined acquisition plans.

(b) Approval. The Vice Commandant (G-CV) is the approving official for streamlined acquisition plans and updates for acquisitions over \$5 million but less than \$50 million. Plans and updates shall be submitted to the Vice Commandant (G-CV) via Commandant (G-CPM).

7-1

CH-1

CGAP CHAPTER 1208 REQUIRED SOURCES OF SUPPLIES AND
SERVICES

CGAP SUBCHAPTER 1208.7 ACQUISITION FROM NONPROFIT AGENCIES
EMPLOYING PEOPLE WHO ARE BLIND OR
SEVERELY DISABLED

CGAP SUBCHAPTER 1208.790 Contracting opportunities for the

Javit-Wagner-O'Day (JWOD)
participating nonprofit agencies
employing people who are blind or
severely disabled.

(a) Scope. This subsection provides policies and procedures to support Public Law 92-28, the Javits-Wagner-O'Day Act. The primary objective of the Act is to provide jobs for persons with severe disabilities and to promote their placement in competitive industry. The Act established an objective for all Executive agencies to increase the opportunities of the JWOD participating nonprofit agencies employing people who are blind or severely disabled to participate in and benefit from Federal programs. The National Industries for the Severely Handicapped (NISH) is the nonprofit agency designated by the President's Committee for Purchase from the Blind and Other Severely Disabled (CPBOSD) to provide nationwide technical assistance to work centers interested in obtaining Federal contracts under Public Law 92-28. Their national office is located in Vienna, Virginia.

(b) Policy. As required by FAR 7.105(b) and FAR 8.001, contracting officers shall satisfy their needs from and through required sources, inclusive of the procurement lists of supplies/services available from CPBOSD, prior to initiating a commercial buy. Contracting officers shall support the efforts of NISH by responding promptly to requests from NISH for procurement data. One supervisory level above the contracting officer shall resolve any dispute between the contracting officer and the SBS/ASBS.

(c) Encouraging NISH participation in acquisitions.

(1) Commandant (G-CPM-S/1) is responsible for implementing the NISH Program for the U.S. Coast Guard. The contracting officer may consult with Commandant (G-CPM-S/1).

(2) Commandant (G-CPM-S/1) will forward, on an annual basis, copies of the current CPBOSD Procurement List and NISH regional offices to all Coast Guard contracting activities

CGAP SUBCHAPTER 1209.105-2 Determinations and documentation.

Prior to contract award, the contracting officer shall review the most recent List of Parties Excluded from Federal Procurement and Nonprocurement Programs to ensure that the proposed contractor is neither debarred, suspended or otherwise ineligible to receive the award. Evidence of this review shall be annotated on form DOT F.4220.I, Determination of Prospective Contractor Responsibility.

CGAP SUBCHAPTER 1209.106 Preaward Surveys.

(a) In circumstances where more than one offeror responds to a solicitation, the contracting officer will determine whether an on-site pre-award survey should be performed consecutively (beginning with the apparent successful offeror) or if there is a need to perform the surveys concurrently (on two or more offerors). Normally, consecutive surveys will be sufficient for Government needs. Concurrent surveys may be more advantageous in certain situations (e.g., to expedite evaluations involving an urgent acquisition). Factors to be considered for use of concurrent surveys on sealed bids may include such factors as cost, time, availability of qualified personnel, and any other factors which may be unique to the procurement. However, if the solicitation is an IFB, in no event shall a preaward survey, or any other process to determine the responsibility of bidders, be initiated until the responsiveness of all bids has been determined. Use of concurrent surveys must be approved one supervisory level above the Contracting Officer or by the COCO Level 2, whichever is lower. This authority may not be redelegated and approval is not required where multiple awards are anticipated in accordance with FAR 52.214-22.

(b) Contracting officers may include the following provision (Notice of Preaward Survey) under Section L of all solicitations for supplies or services when a preaward survey might be desirable prior to award:

NOTICE OF PREAWARD SURVEY

(c) Offerors are advised that the Government may contact potential contractors to ascertain their capabilities to perform the work specified in this solicitation. In addition to financial statements and credit rating checks, the Government may visit a prospective contractor's facility(s). Areas of interest on this survey may include, but are not limited to the following:

- (1) performance plans.
- (2) quality assurance and control plans.

- (3) personnel recruitment and training plans.
- (4) workload factors for manpower utilization
- (5) management plan for handling peak workloads.
- (6) production capability.

- (i) plant facilities, equipment, and labor resources.
- (ii) purchasing and subcontracting.
- (iii) performance record and ability to meet delivery schedules.

(d) Offerors are advised that accomplishment of this survey is a part of the evaluation process and is not to be construed as an indication that an offeror will receive or is in the best position to receive the resultant award.

(end of provision)

CGAP SUBCHAPTER 1209.106-90 Preaward Survey for Professional Services.

(a) The types of information listed below are typical of some of the data that the contracting officer can request from a professional services contractor in order to make a determination of responsibility.

- (1) Organizational structure and plan to accomplish the service.
- (2) Summary of experience in performing the same or similar work.
- (3) Evidence of pertinent state and local licenses.
- (4) Evidence of professional liability insurance, or evidence that such insurance can be obtained.
- (5) Membership in professional organizations.
- (6) Resume of key personnel with particular emphasis on academic accomplishments pertinent to the service to be performed.
- (7) Information on the firm or key individuals that reflect their status or professional recognition in their field, such as awards, published articles, etc.

(b) If an on-site survey of facilities will be required by the Government, most of the above types of information should be reviewed at the offeror's facilities to minimize paperwork submissions. Evidence of required insurance, licenses, certificates, and similar documentation shall be retained in the contract file, or in a centralized book in the contracting office where such documents can be tracked for expiration

dates by clerical personnel.

9-2

CGAP SUBCHAPTER 1209.2 QUALIFICATIONS REQUIREMENTS

CGAP SUBCHAPTER 1209.202 Policy.

(a) (1) The written justification prepared by the cognizant technical activity to establish a qualification requirement under FAR 9.202(a)(1) shall be submitted via the contracting officer, the COCO Level 2, and the Activity Competition Advocate, to Commandant (G-CPM-S/3) for processing and obtaining HCA approval.

(b) The written waiver prepared by the cognizant technical activity shall be submitted via the contracting officer, the COCO Level 2, and the Activity Competition Advocate to Commandant (G-CPM-S/3) for processing and obtaining HCA approval.

(e) The written justification prepared by the cognizant technical activity stating why a procurement should not be delayed in order to comply with FAR 9.202(a) shall be submitted via the contracting officer, the COCO Level 2, and the Activity Competition Advocate to Commandant (G-CPM-S/3) for processing and obtaining HCA approval.

CGAP SUBCHAPTER 1209.206 Acquisitions subject to qualification requirements.

CGAP SUBCHAPTER 1209.206-1 General.

(b) The written justification prepared by the cognizant technical activity to justify that an emergency exists under FAR 9.206-1 shall be submitted via the contracting officer, the COCO Level 2, and the Activity Competition Advocate to Commandant (GCPM-S/3) for processing and obtaining an HCA determination that an emergency exists that would preclude enforcement of an established qualification requirement.

CGAP SUBCHAPTER 1209.4 DEBARMENT, SUSPENSION, AND INELIGIBILITY

CGAP SUBCHAPTER 1209.402 Policy.

(d) This subchapter prescribes the Coast Guard policies and procedures for debarment and suspension of contractors from participating

in Coast Guard acquisitions.

CGAP SUBCHAPTER 1209.403 Definitions.

(a) The debarring official authority under FAR 9.403 is retained by the HCA.

(b) The suspending official authority under FAR 9.403 is retained by the HCA.

9-3

CGAP SUBCHAPTER 1209.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(c) (5) Corrections or updates for internal distribution of the list entitled List of Parties Excluded from Federal Procurement and Nonprocurement Programs shall be submitted to Commandant (G-CPM).

CGAP SUBCHAPTER 1209.405 Effect of Listing.

The contracting officer shall submit the written justification requiring the HCA determination under FAR 9.405(d)(2) or (d)(3) through the COCO, either Level 1 or Level 2, to Commandant (G-CPM) for processing to the HCA.

CGAP SUBCHAPTER 1209.405-1 Continuation of current contracts.

The contracting officer shall submit the written justification requiring the HCA determination under FAR 9.405-1(a) and (b) through the COCO, either Level 1 or Level 2, to Commandant (G-CPM) for processing to the HCA. All requests shall contain adequate supporting documentation, and describe the circumstances that constitute a compelling reason for award, renewal, or extension.

CGAP SUBCHAPTER 1209.405-2 Restrictions on Subcontracting.

The contracting officer shall submit the written justification requiring the HCA determination under FAR 9.405-2(a) through the COCO, either Level 1 or Level 2, to Commandant (G-CPM) for processing to the HCA.

CGAP SUBCHAPTER 1209.406 Debarment.

CGAP SUBCHAPTER 1209.406-1 General.

The contracting officer shall submit the written justification requiring the HCA determination under FAR 9.406-1(a) through the COCO, either Level 1 or Level 2, to Commandant (G-CPM) for processing to the HCA.

CGAP SUBCHAPTER 1209.406-3 Procedures.

(a) The report of proposed debarment in accordance with TAM 1209.406-3 shall be coordinated with legal counsel before submission to Commandant (G-CPM) for processing to the HCA. Because ultimately debarments may go before the DOTBCA, all

9-4

activities shall contact and coordinate actions with Commandant (G-LPL). When it is determined that there is adequate evidence to support the existence of a cause for debarment, the Office of Procurement Management should prepare a report to the HCA. Upon receipt of the report, the HCA may establish a debarment and suspension committee. The committee members will consult with the DOT Office of Inspector General, and when necessary, the Department of Justice, during the investigative process, and prepare a findings of fact document that will provide background information about the case, a basis for action, and recommendation concerning proposed debarment to the debarring official.

(b) When the investigation is completed, the findings of fact will be drafted, submitted to the chairman of the debarment and suspension committee members for concurrence. The findings of fact will then be provided to the debarring official for approval.

(c) (1) When the debarring official determines that cause exists to propose debarment of a contractor, a notice shall be issued by certified mail to the contractor in accordance with FAR 9.406-3(c). The contractor may present information in opposition to the proposed debarment within 30 days of receiving the notice. Matters in opposition may be presented in person, in writing, or through a representative. However, if a contractor desires to present matters in person or through a representative, all written materials shall be delivered at least five working days prior to the presentation. The designated representative(s) of the HCA shall hear all presentations, review all written materials, and shall make recommendations to the debarring official.

(2) If no reply is received from the contractor to the notice of proposed debarment, the debarment and suspension committee shall make recommendations to the debarring official on the information available.

(d) In actions not based on a conviction or civil judgment, the debarring official determines if the contractor's presentation of opposition raises a genuine dispute of material facts. Findings of fact proceedings will be conducted within 45 days of the contractor's presentation of matters in opposition, unless the debarring official extends this period for good cause. The contractor will be provided the opportunity to appear in person or through a representative and to present documentary evidence. The Coast Guard may present evidence relevant to the facts at issue, including a rebuttal to the contractor's statement of matters in opposition. Written findings of fact will be prepared and provided to the debarring official for approval. The debarring official shall render a decision in accordance with FAR 9.406-3(d)(2)(ii). A transcript of the proceeding shall be made available at cost to the contractor upon

9-5

request. Issues that involve the disputes of material facts may be submitted by the debarring official to the DOT Board of Contract Appeals.

(e) Commandant (G-CPM) will distribute the copies of the HCA decision to the offices required at TAM 1209.406-3(e).

CGAP SUBCHAPTER 1209.407 Suspension.

CGAP SUBCHAPTER 1209.407-1 General.

The contracting officer shall submit the written justification requiring the HCA determination under FAR 9.407-1(d) through the COCO, either Level 1 or Level 2, to Commandant (G-CPM) for processing to the HCA.

CGAP SUBCHAPTER 1209.407-3 Procedures.

(a) The report of proposed suspension in accordance with TAM 1209.406-3 shall be coordinated with legal counsel before submission to Commandant (G-CPM) for processing to the HCA. Because ultimately debarments may go before the DOTBCA, all activities shall contact and coordinate actions with Commandant (G-LPL). When it is determined that there is adequate evidence to support the existence of a cause for suspension, the Office of Procurement Management should prepare a report

to the HCA. Upon receipt of the report, the HCA may establish a debarment and suspension committee. The committee members will consult with the DOT Office of Inspector General, and when necessary, the Department of Justice, during the investigative process, and prepare a findings of fact document that will provide background information about the case, a basis for action, and recommendation concerning proposed suspension to the suspending official.

(b) When the investigation is completed, the findings of fact will be drafted, submitted to the chairman of the debarment and suspension committee members for concurrence. The findings of fact will then be provided to the suspending official for approval.

(c) (1) When the suspending official determines that cause exists to propose debarment of a contractor, a notice shall be issued by certified mail to the contractor in accordance with FAR 9.406-3(c). The contractor may present information in opposition to the proposed debarment within 30 days of receiving the notice. Matters in opposition may be presented in person, in writing, or through a representative. However, if a contractor desires to present matters in person or through a representative, all

9-6

written materials shall be delivered at least five working days prior to the presentation. The designated representative(s) of the HCA shall hear all presentations, review all written materials, and shall make recommendations to the suspending official.

(2) If no reply is received from the contractor to the notice of proposed debarment, the debarment and suspension committee shall make recommendations to the suspending official on the information available.

(d) In actions not based upon an indictment, the debarring official determines if the contractor's presentation of opposition raises a genuine dispute of material facts. Findings of fact proceedings will be conducted within 45 days of the contractor's presentation of matters in opposition, unless the suspending official extends this period for good cause. The contractor will be provided the opportunity to appear in person or through a representative and to present documentary evidence. The Coast Guard may present evidence relevant to the facts at issue, including a rebuttal to the contractor's statement of matters in opposition. Written findings of fact will be prepared and provided to the suspending official for approval. The suspending official shall render a decision in accordance with FAR 9.406-3(d)(2)(ii). A transcript of the proceeding shall be made

available at cost to the contractor upon request. Issues that involve the disputes of material facts may be submitted by the suspending official to the DOT Board of Contract Appeals.

(e) Commandant (G-CPM) will distribute the copies of the HCA decision to the offices required at TAM 1209.406-3(e).

CGAP SUBCHAPTER 1209.408 Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.

(a) (2) COCOs shall fax the affirmative certification from FAR clause 52.209-5, proposed responsibility determination, and the legal counsel review to Commandant (G-CPM), who will notify the HCA.

CGAP SUBCHAPTER 1209.5 ORGANIZATIONAL CONFLICTS OF INTEREST

CGAP SUBCHAPTER 1209.503 Waiver.

The contracting officer shall submit the written request for waiver requiring HCA approval under FAR 9.503 through the COCO Level 2 to Commandant (G-CPM) for processing to the HCA.

CGAP SUBCHAPTER 1209.504 Contracting officer responsibilities.

(c) The authority to consider and approve a course of action involving a significant potential conflict before issuance of a solicitation is delegated to the COCO, either Level 1 or Level 2.

9-7

CGAP SUBCHAPTER 1209.506 Procedures.

(d) The authority to approve or otherwise direct the contracting officer's actions before award of a contract involving a significant potential conflict is delegated to the COCO, either Level 1 or Level 2.

9-8

CGAP CHAPTER 1210 MARKET RESEARCH

CGAP SUBCHAPTER 1210.002 Procedures.

(b) (2) (i) The activity Small Business Specialist/Assistant Small Business Specialist (SBS/ASBS) should be contacted by technical and contracting personnel in order to assist in market research and identify potential small business sources. Results of the market research shall be summarized and submitted with the Small Business Review Form.

(b) (2) (iv) See discussion of Market Research in Enclosure (3).

10-1

CGAP CHAPTER 1211 DESCRIBING AGENCY NEEDS

CGAP SUBCHAPTER 1211.002-90 Metric Policy.

(c) COMDTINST 5711.2, Coast Guard Transition to the Metric System, requires offices to consider and incorporate metric requirements early in systems acquisitions. The Coast Guard metric Transition Plan, which supplements COMDTINST 5711.2, is available through Commandant (G-SLP). This plan describes the Coast Guard's overall strategies for metrication and provides general requirements and procedures for achieving these goals. Commandant (SLP) coordinates an annual update on plan tasks with each office having responsibility for that function.

CGAP SUBCHAPTER 1211.2 USING AND MAINTAINING REQUIREMENT DOCUMENTS

CGAP SUBCHAPTER 1211.201-90 Cancellation of Requirements

(f) If an error concerning a document's approval date is discovered in an invitation for bid after bid opening but prior to award, and the invitation is cancelled in accordance with FAR 14.404-1(b), then the contracting officer should normally issue a new solicitation. The contracting officer shall not convert the invitation to request for proposal without the prior written approval of the Head of the Contracting Activity (HCA).

CGAP SUBCHAPTER 1211.6 PRIORITIES AND ALLOCATIONS

CGAP SUBCHAPTER 1211.603 Procedures.

(e) and (f) The contracting officer shall contact Commandant (G-CPM-2) immediately upon identifying a need to assign a DX rating to any

document, and prior to any such assignment.

(g) The designated point of contact to assist contracting offices with requests for Special Priorities Assistance (SPA) is Commandant (G-CPM-2). Upon receipt of a Form ITA-999, Request for Special Priorities Assistance, the contracting officer shall ensure that the form is complete and the information is accurate. If the request for assistance cannot be resolved by the contracting officer, the contracting officer shall attach the information required for Blocks 18(a) through (c) and 19(e) through (g) to Form ITA-999 and forward the complete package to Commandant (G-CPM-2) for further action.

11-1

CH-1

(h) The contracting officer shall provide a written report of any violations of the Defense Priorities and Allocations System (DPAS) to Commandant (G-CPM-2) for review and forwarding to Department of Commerce

CH-1

11-2

CGAP CHAPTER 1212 ACQUISITION OF COMMERCIAL ITEMS

CGAP SUBCHAPTER 1212.2 SPECIAL REQUIREMENTS FOR THE ACQUISITION COMMERCIAL ITEMS

CGAP SUBCHAPTER 1212.203-90 Procedures for Solicitation, evaluation, and award.

Enclosure (3) provides a guide for solicitation, evaluation, and award using commercial procedures.

CGAP SUBCHAPTER 1212.203-91 Coast Guard Ombudsman Program.

In accordance with Commandant Instruction 4200.49, Coast Guard Solicitation Ombudsman Program, all solicitations issued using other than simplified acquisition procedures and including commercial items procedures shall have the Ombudsman Notice affixed as a cover page. When using streamlined procedures where the CBD synopsis and the solicitation are combined, the Ombudsman Notice shall be published as part of the CBD submission.

CGAP SUBCHAPTER 1212.302 TAILORING OF PROVISIONS AND CLAUSES FOR

THE ACQUISITION OF COMMERCIAL ITEMS

(c) Class waivers sent to the HCA for approval shall be forwarded via Commandant (G-CPM)

12-1

CH-1

CGAP CHAPTER 1213 SIMPLIFIED ACQUISITION PROCEDURES

CGAP SUBCHAPTER 1213.000 Scope of part.

Commandant Instruction M4200.13 (series), prescribes policies, procedures, and provides guidance for the acquisition of supplies, services, and construction when the aggregate value of the acquisition is \$100,000 or less. Copies of the manual may be ordered per the instructions in COMDTNOTE 5600, Directives, Publications, Reports Index. For those contracting offices with simplified acquisition procedure authority of up to \$50,000, the reporting requirements at CGAP Chapter 1204.602 are required which captures all awards over \$25,000 and modifications to those awards for any value.

13-1

CGAP CHAPTER 1214 SEALED BIDDING

CGAP SUBCHAPTER 1214.2 SOLICITATION OF BIDS

CGAP SUBCHAPTER 1214.201 Preparation of invitations for bids.

CGAP SUBCHAPTER 1214.201-7 Contract clauses.

The authority to waive the requirement for inclusion of the clauses at FAR 52.214-27, "Price Reduction for Defective Cost or Pricing Data--Modifications--Sealed Bidding," and at FAR 52.214-28, "Subcontractor Cost or Pricing Data--Bidding," in a contract with a foreign government or an agency of a foreign government is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1214.201-8 Price related factors.

CGAP SUBCHAPTER 1214.201-890 Price related factors in the
award of vessel repair
contracts.

(a) Foreseeable costs in connection with the differences of shipyard locations in the award of commercial vessel repair contracts must be evaluated under both sealed bidding and competitively negotiated acquisitions. The contracting officer will determine the applicability of these costs based on the circumstances of each acquisition. Among those that commonly apply (this list is not inclusive) are: (1) Travel and per diem.

(2) Fuel.

(3) Berthing and/or messing shipboard personnel.

(4) Minimal messing facilities as a contractual requirement.

(5) Family Separation allowance, U.S. Coast Guard Pay Manual, Commandant Instruction M7220.29, Chapter 3-F.

(6) Transportation during repairs away from homeport (Joint Federal Travel Regulations, Chapter 5, Part C, paragraph U5222 and Chapter 7, Part F, paragraph U7115).

(b) For costs related to moving vessels from one site to another, contracting personnel must refer to the latest COCO Alert regarding variable cost/mile or the G-CFP Website at <http://cgweb.comdt.uscg.mil/G-CFP/g-cfs-1/systems/finsys.htm> shall reference Documentation in the evaluation of foreseeable costs

14-1

CH-1

each different geographical area in which solicited contractors are located, rather than citing the individual contractors themselves. Documentation shall also identify how foreseeable costs are developed. For example, tables or indices from which costs were extracted shall be referenced.

(c) Contracting officers shall include the following provisions under Sections K and M, respectively, in certain commercial vessel repair solicitations:

LOCATION OF OFFEROR'S COMMERCIAL SHIPYARD

In order for the contracting officer to evaluate certain foreseeable costs to the Coast Guard that will vary with the location of the commercial shipyard to be used by the offeror as further defined in Section M, Evaluation Factors for Award, the offeror is required to provide in the space below the exact location of the shipyard to be used to perform the services required under this solicitation.

The offeror is cautioned that its failure to provide the location of its commercial shipyard in the space provided above may result in its bid being declared nonresponsive under the provisions of an Invitation for Bids or its proposal being declared deficient under the terms of a Request for Proposal.

(end of provision)

FORESEEABLE COST FACTORS PERTAINING TO DIFFERENT SHIPYARD LOCATIONS

In addition to other evaluation factors for award that may be listed in this solicitation, the contracting officer will evaluate certain foreseeable costs to the Coast Guard that will vary with the location of the commercial shipyard to be used by offerors. Costs will be calculated based on the offeror's shipyard location and these costs will be added, for the purposes of evaluation only, to the offeror's overall bid price or price proposal. These elements of foreseeable costs consist of the following: (contracting officer shall list those applicable foreseeable cost elements as detailed under CGAP 1214.201-890, in addition to any others that may apply to the acquisition).

(end of provision)

repair.

The inclusion of contingent line items in solicitations for ship repair is prohibited.

CGAP SUBCHAPTER 1214.201-91 Liquidated damages for ship repair.

Prior to including a liquidated damages clause for damages in excess of \$500 per day in any solicitation or contract for ship repair, the contracting officer shall obtain local legal counsel approval of the amount and specific method of determining such amount.

CGAP Subchapter 1214.201-92 Prohibition on foreign ship repair for ships homeported in the United States.

Any overhaul, repair, or maintenance of a Coast Guard vessel, the homeport of which is in a state of the United States, shall be accomplished within the United States. However, an exception for emergency voyage repairs outside the United States may be permitted if approved in advance by the HCA. In such a case, the COCO Level 2 shall submit the written justification for a determination that there are compelling reasons permitting performance of emergency voyage repairs outside the United States to the HCA via Commandant (G-CPM).

CGAP SUBCHAPTER 1214.290 Geographical restriction for vessel repair contracts.

(a) Solicitations (IFBs and RFPs) may require that contract performance be restricted to a specific geographical area when the contracting officer determines in writing that adequate competition (two or more responsive, responsible offerors) exists, or when a Justification for Other Than Full and Open Competition (JOTFOC), supporting the decision to award the contract on a sole source basis, is prepared and approved, and one of the following conditions is satisfied:

(1) The Area Commander determines in writing that such a restriction is necessary, with respect to the instant availability, to allow the vessel to meet its operational requirements as promulgated by COMDTINST 3100.4 (series), Cutter Employment Standards.

(2) The Area Commander determines in writing that the physical condition of the vessel requires such a restriction for safety reasons.

(3) The Area Commander determines in writing that such a restriction is necessary, with respect to the instant availability, because of specific mission requirements, and describes the requirements in detail.

(4) The Area Commander determines, in writing, that one or more class restrictions are necessary for one or more of the reasons in (a)(1), (a)(2), and/or (a)(3) above. Any such class restriction shall be revalidated at least annually.

(b) A copy of any such class restriction shall be forwarded to the Coast Guard Assistant Competition Advocate, Commandant (G-CPM-S/3).

(c) The contracting officer shall insure that the file contains the proper documentation prior to publicizing or issuing any solicitation restricting performance to a specific geographical area.

CGAP SUBCHAPTER 1214.4 OPENING OF BIDS AND AWARD OF CONTRACT

CGAP SUBCHAPTER 1214.402 Opening of bids.

CGAP SUBCHAPTER 1214.402-3 Postponement of openings.

If required, a bid opening extension must be specified in an amendment to the solicitation stating the revised date and time of bid opening. Under no circumstances shall a date and time for bid opening be extended indefinitely.

CGAP SUBCHAPTER 1214.404 Rejection of bids.

CGAP SUBCHAPTER 1214.404-1 Cancellation of invitations after opening.

(c) The authority to approve the written determination to cancel a solicitation and reject all bids before award but after bid opening is delegated to the COCO Level 2. Each written determination to cancel a solicitation must strictly comply with the requirements of FAR 14.404-1(c), citing at least one of the reasons for cancellation contained therein, and documenting the facts to support the cited reason from the circumstances of the instant solicitation. Because of the high probability of protest, legal review of the action is recommended.

(e) The authority to approve the completion of the invitation for bids through negotiation when the bid has been cancelled under the circumstances cited under FAR 14.404-1(e), is delegated to the COCO Level 2.

14-4

CGAP SUBCHAPTER 1214.407 Mistakes in bids.

CGAP SUBCHAPTER 1214.407-1 General.

While it is not possible to develop a precise percentage formula as to when the disparity between the apparent low bid and other bids (or between the apparent low bid and the Government estimate) is sufficient to require bid verification, the Comptroller General, the federal courts, and the various agency boards all use this measure to determine whether an offeror's bid mistake should be considered so obvious that the contracting officer should have constructive notice that it exists. When the disparity between the low bid and the next low bid or between the low bid and the Government estimate approaches 20% of the lower figure, Comptroller General decisions have held that the contracting officer should have verified the bid. The disparity must be considered in view of the total value of the acquisition, previous procurement history, quantity differences, time since the last acquisition was made, and any circumstances unique to the current or previous acquisition.

CGAP SUBCHAPTER 1214.407-3 Other Mistakes disclosed before award.

(e) The authority to make the determinations under FAR 14.407-3, paragraphs (a), (b), (c), and (d) is delegated to the COCO Level 2.

(f) If legal counsel is not available at the contracting location, then the determination shall be submitted to the Office of Procurement Law, Commandant (G-LPL) for concurrence.

(g) (2) Contracting officers shall require that the written request of a contractor to withdraw or modify its bid contain at a minimum an indication of how the mistake was made and where it is reflected in the workpapers, and a certified statement, executed before a Notary Public or other official empowered to administer oaths and take acknowledgments. The certified statement should read substantially as follows: "I certify that the information cited herein is true and correct and that the

worksheets and other evidence relied upon are original and have

14-5

not been altered in any way." The certified statement must include the date or timeframe during which the worksheets were prepared.

(i) Doubtful cases involving an agency advance decision from the Comptroller General under FAR 14.407-3 should be forwarded via Commandant (G-CPM) for the SPE consideration at TAM Subchapter 1214.407-3(i).

CGAP SUBCHAPTER 1214.407-4 Mistakes after award.

(d) The proposed determination referenced under FAR 14.407-4(b) and TAM Subchapter 1214.407-4(b) shall be coordinated with legal counsel before proceeding with any actions to rescind or reform a contract. For those contracting activities where legal counsel is not available, the contracting officer shall contact Commandant (G-LPL). The contracting officer shall follow procedures in CGAP Subchapter 1233.2 upon a contractor's appeal to any contracting officer's final decision which denies the adjustment or entitlement after contract award.

14-6

CGAP CHAPTER 1215 CONTRACTING BY NEGOTIATION

CGAP SUBCHAPTER 1215.2 SOLICITATION AND RECEIPT OF PROPOSALS
AND INFORMATION

CGAP SUBCHAPTER 1215.201-90 Exchange with industry before receipt of proposals.

Any changes to a solicitation (including the specifications) resulting from a preproposal conference must be specifically addressed in an amendment to the solicitation. While all prospective offerors should receive a copy of the minutes of the preproposal conference, the minutes shall not be used as a means of amending the solicitation.

CGAP SUBCHAPTER 1215.204 Contract Format.

(e) The authority to exempt any contract document not already

exempted by category in FAR 15.204 (a through d) from the requirement to follow the uniform contract format is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1215.3 SOURCE SELECTION

CGAP SUBCHAPTER 1215.303-90 Responsibilities.

(a) The matrix given below indicates Source Selection Authority (SSA) and Procedures for the following procurement values:

Value	SSA	Procedures
Major systems acquisitions in accordance with TAM 1234 Appendix A	HCA	Structured Source Selection Procedures (see note (1))
Over \$50 M (non-major)	HCA	Structured Source Selection Procedures (see note (1))
\$20 M to \$50 M	HCA unless delegated (see note (2))	Structured Source Selection Procedures (see note(1))
Up to \$20 M	Contracting Officer	Modified Source Selection Procedures (see note (3))

Note (1) Structured Source Selection Procedures are required in accordance with CGAP Enclosure (18).

15-1

CH-1

Note (2) For these acquisitions, the COCO Level 2 may request designation of an SSA below the level of the HCA. The request shall be forwarded to Commandant (G-CPM) as early as possible in the process and shall be accompanied by a copy of the Procurement Forecast Form. In any case, it shall be received before completion of the Acquisition Plan (AP) or Streamlined Acquisition Plan (SAP), and before issuance of any Commerce Business Daily announcement or offering letter to the Small Business Administration where appropriate.

Note (3) For these acquisitions, the contracting officer is not required to institute structured source selection procedures or a formal SEB unless the procurement is designated a Level IV major acquisition in

accordance with COMDTINST M4150.2 (series) Systems Acquisition Manual. However for competitive procurements up to \$20 million, source selection procedures are required in accordance with CGAP Enclosure (22).

CGAP SUBCHAPTER 1215.303-91 Routing for headquarters acquisitions.

(a) The contracting officer shall prepare the Selection Plan (SP) in coordination with the project manager and other cognizant technical representatives. When the HCA is the SSA, the contracting officer shall route the SP through the following offices for concurrent clearance prior to being forwarded to the Source Selection Authority (SSA): Commandant (G-LPL), the cognizant sponsoring and/or technical office, the project manager, Commandant (G-ACS), and Commandant (G-CPM). The SP shall be transmitted by memorandum from Commandant (G-A), to the SSA.

(b) Upon approval of the SP by the SSA, all subsequent transmittals relating to the source selection that are sent to the SSA for approval shall be approved by the Source Evaluation Board (SEB) and transmitted by memorandum from the Chairperson of the SEB, to the SSA. When a Competitive Acquisition Management Panel (CAMP), or other boards or panels have been established for the acquisition, all subsequent transmittals shall be sent from the Chairperson of the SEB, to the SSA with copies to all panel or board members.

(c) When it is necessary to route source selection documents for concurrent clearance, signatures, etc., the cognizant contracting officer shall place the document in a sealed envelope stamped "Source Selection Information - See FAR 3.104". The envelope shall cite the name and telephone number of the contracting officer or other point of contact for return of the

CH-1

15-2

contracting officer or other point of contact for return of the document after routing to SEB members, other board or panel members, and the SSA as necessary. All such documents shall be handcarried directly to the panel or board members and the SSA. Source selection sensitive information shall not be forwarded through staff members.

(d) When the HCA has delegated the SSA function, routing procedures may be modified as necessary as long as these procedures are designed to safeguard source selection sensitive information to the same extent as

indicated above.

CGAP SUBCHAPTER 1215.303-92 Routing for field acquisitions.

(a) The initial document (Selection Plan (SP)) shall be prepared by the contracting officer in coordination with the cognizant technical representative or program manager and the field legal office. When the HCA is the SSA, the plan shall be transmitted by letter from the COCO Level 2 to the SSA, via Commandant (G-CPM), for concurrent clearance.

(b) Upon approval of the SP by the SSA, all subsequent transmittals relating to the source selection that are sent to the SSA for information and/or approval shall be approved by the SEB, and transmitted by memorandum from the Chairperson to the SSA via Commandant (G-CPM). The document shall be securely wrapped, addressed and mailed to Commandant (G-CPM) marked for the attention of the SEB representative in Commandant (G-CPM).

(c) For field acquisitions, the SEB representative in Commandant (G-CPM) has responsibility for document routing and handling after receipt of the document. This shall be done as much as possible in accordance with the procedures for headquarters acquisitions as indicated in CGAP 1215.303-91(c).

(d) When the HCA has delegated the SSA function, routing procedures may be modified as necessary as long as these procedures are designed to safeguard source selection sensitive information to the extent indicated above.

CGAP SUBCHAPTER 1215.304 Evaluation factors and significant subfactors.

(e) Numerical weights (cost/technical/management, etc.) if used in the evaluation of proposals shall not be disclosed in the solicitation.

CGAP SUBCHAPTER 1215.305-90 Source Selection and Proposal Evaluation of Commercial Items.

When contracting for commercial items under FAR Part 12 in conjunction with FAR Part 15, the contracting officer shall implement applicable policies and procedures of CGAP Chapter 1215 modified as necessary based on the complexities and value of the procurement. At a minimum, contracting

officers shall document the basis for:

Source selection (CGAP 1215.303-90(a)(note3));
Proposal Analysis Techniques (CGAP 1215.404-1(a)(4));
Profit (CGAP 1215.404-4(b));
Prerenegotiation Objectives (CGAP 1215.406-170); and
Documenting the Negotiation and the contracting officer's
determination of price reasonableness (CGAP 1215.406-370)

CGAP SUBCHAPTER 1215.306 Exchanges with offerors after receipt
of proposals.

(b) Prior to establishment of the competitive range, all
communications with offerors shall be approved and conducted by the
contracting officer.

CGAP SUBCHAPTER 1215.4 CONTRACT PRICING

CGAP SUBCHAPTER 1215.403 Obtaining cost or pricing data.

CGAP SUBCHAPTER 1215.403-1 Prohibition on obtaining cost or
pricing data.

(c) (4) When requesting HCA waiver in accordance with this
subsection and FAR 1215.403-1, the request shall be signed by the COCO
Level 2 and routed via Commandant (G-CPM-2).

CGAP SUBCHAPTER 1215.403-4 Requiring cost or pricing data.

In making the determination as to the applicability of requiring
certified cost or pricing data, the contracting officer shall take into
account the estimated amount for any option items when establishing the
total estimated amount of the action.

CGAP SUBCHAPTER 1215.403-570 Instructions for submission of
cost or pricing data or
information other than cost or
pricing data.

When an offeror refuses to provide needed data or to take
corrective action, the matter shall be referred to the COCO Level 2.

CGAP SUBCHAPTER 1215.404-1 Proposal Analysis Techniques.

(a)(4) Contracting officers shall document the basis for determining the reasonableness of offered prices for awards and modifications, including , modifications to contracts awarded by sealed bidding, valued over \$2,500 up to \$25,000. For actions valued over \$25,000, see TAM 1204.70 and this subchapter.

CGAP SUBCHAPTER 1215.404-2 Information to support proposal analysis.

CGAP SUBCHAPTER 1215.404-290 Requesting and handling audits or other field pricing reports.

(a) Procedures for requesting and handling audits or other field pricing reports can be found at CGAP Subchapter 1242.101

CGAP SUBCHAPTER 1215.404-4 Profit.

(a) When cost analysis is required to determine the cost realism and reasonableness for awards and modifications (including modifications to contracts awarded by sealed bidding) valued over \$2,500 up to \$100,000, contracting officers shall document the basis for determining profit or fee objectives. For such actions valued over \$100,000 where cost analysis is required to determine cost realism and reasonableness, the structured approach prescribed by TAM 1215.404-4(b) shall be used to determine the profit or fee objective.

CGAP SUBCHAPTER 1215.406 Documentation.

CGAP SUBCHAPTER 1215.406-170 Prenegotiation objectives.

(b) Review of Prenegotiation memoranda may be subject to CGAP Subchapter 1204.7002(c) and that subchapter shall be consulted before proceeding with any negotiations. Contracting activities may establish written internal procedures for review and approval of prenegotiation memoranda which are more restrictive than those specified in CGAP Subchapter 1204.7003 and this paragraph, but may not issue procedures which authorize less review and approval levels than those specified in CGAP or TAM. When formal contracting procedures using negotiated methods are being followed for acquisitions valued at \$100,000 or above, the Prenegotiation Memorandum format at enclosure (19) shall be used.

For acquisitions valued at less than \$100,000, local standardized procedures for documenting prenegotiation objectives shall be developed which meet the criteria at FAR 15.406-1. For these acquisitions, the Pre/Price Negotiation Memorandum at enclosure (21) may be used. For major systems acquisitions subject to TAM Chapter 1234, Appendix A, Major Acquisition Policies and Procedures, the Competitive Range Report and Final SEB Report may serve as the Prenegotiation and Price Negotiation Memoranda respectively, provided they contain all the key elements of CGAP Enclosure (19) and Enclosure (20).

CGAP SUBCHAPTER 1215.406-370 Documenting the negotiation.

(b) Review of Price Negotiation Memoranda may be subject to CGAP 1204.7002(c) and that subchapter shall be consulted before proceeding with any negotiations. Contracting activities may establish written internal procedures for review and approval of price negotiation memoranda which are more restrictive than those specified in CGAP Subchapter 1204.7003 and this paragraph, but may not issue procedures which authorize less review and approval levels than those specified in CGAP or TAM. When formal contracting procedures using negotiated methods are being followed for acquisitions valued at \$100,000 or above, the Price Negotiation Memorandum format at enclosure (20) shall be used. For acquisitions valued at less than \$100,000, local standardized procedures for documenting the negotiations and fair and reasonable pricing shall be developed which meet the criteria at FAR 15.406-3. For these acquisitions, the Pre/Price Negotiation Memorandum at enclosure (21) may be used.

CGAP SUBCHAPTER 1215.6 UNSOLICITED PROPOSALS

CGAP SUBCHAPTER 1215.606 Agency procedures.

CGAP SUBCHAPTER 1215.606-190 Receipt and initial review.

Upon receipt of an unsolicited proposal, the contracting activity shall review it for compliance with FAR 15.603(b). This review shall be accomplished within 10 working days after receipt of an unsolicited proposal. If it is not found to be a true unsolicited proposal after this cursory review, it shall be returned immediately to the offeror with a letter explaining why it is not being accepted as an unsolicited proposal.

If the proposal does comply with FAR 15.603(b), it shall be forwarded within 3 working days to the central office with a cover letter indicating the unsolicited proposal requires further initial review. Concurrent with this action, the contracting activity shall acknowledge, in writing, receipt of the proposal to

the proposer and indicate proposal evaluation is expected to be completed within the next sixty days. A copy of the letter to the proposer shall be included with the proposal sent to the central office. The central office for unsolicited proposals received by Headquarters and Project Resident Offices is Commandant (G-ACS). The central office for all other units is Commandant (G-CPM). Unsolicited proposals shall not be reproduced, disseminated, or the contents disclosed without the approval of the appropriate central office. The central office will conduct an initial review to determine if the unsolicited proposal contains sufficient basic, technical, and supporting information as stated in FAR 15.605. If the proposal does not contain sufficient information for a meaningful evaluation, Commandant (G-ACS) or Commandant (G-CPM) will return it to the submitter, explaining the circumstances.

CGAP SUBCHAPTER 1215.606-290 Evaluation.

(a) After a positive initial review, the central office stipulated in CGAP 1215.606-190 will forward an unsolicited proposal to the appropriate office(s) for technical review. Prior to forwarding the unsolicited proposal, the central office shall place a cover sheet on the proposal which contains the notice in FAR 15.609(d).

(b) The technical review must be made within the allotted time frame, indicated by the central office (normally 30 calendar days). Extensions are granted only under unusual circumstances. The technical office receiving an unsolicited proposal is responsible for evaluating or coordinating the evaluation of a proposal in accordance with FAR 15.606-2 and then reporting its findings to the central office which requested the evaluation. It is also responsible for safeguarding any proprietary information in the proposal during the evaluation process. Upon completion of its evaluation, the evaluation office must provide the requesting central office with a report containing (1) the technical merit of the proposal, (2) the availability of funds, (3) the need for the proposed goods or services, and (4) certified data to support a recommendation for other than full and open competition pursuant to FAR 15.607(b).

(c) During the evaluation of an unsolicited proposal, the technical evaluator shall not hold discussions with the originator of the proposal. If additional data is required from the proposer in order to permit a comprehensive evaluation, or if it is felt that another office is

better suited to perform the evaluation, Commandant (G-ACS) or Commandant (G-CPM) will serve as the point of contact between the originator and the technical office(s).

15-7

CH-1

(d) If a favorable technical evaluation is received, and the requirements of FAR 15.607 have been met, Commandant (G-ACS) or Commandant (G-CPM) shall forward all documents, correspondence, and the proposal to the applicable contracting officer to commence negotiations.

CH-1

15-8

CGAP CHAPTER 1216 TYPES OF CONTRACTS

CGAP SUBCHAPTER 1216.6 TIME-AND MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS

CGAP SUBCHAPTER 1216.603-2 Application.

(c) The authority to approve the contracting officer's determination of a reasonable price or fee as provided in this paragraph is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1216.603-3 Limitations.

The authority to determine that a letter contract may be used because no other contract is suitable is delegated to the COCO Level 2.

16-1

CGAP CHAPTER 1217 SPECIAL CONTRACTING METHODS

CGAP SUBCHAPTER 1217.106 Procedures.

CGAP SUBCHAPTER 1217.106-3 Special procedures applicable to DOD, NASA, and the Coast Guard.

Multi-year contracting shall be used only after obtaining written

approval to do so from the HCA. The request shall be forwarded by the COCO Level 2 via Commandant (G-CPM). The authorities in paragraphs (f) and (g) of this subsection are reserved for the HCA. Any request proposing to NOT fund multi-year cancellation ceilings will be subject to rigorous justification.

CGAP SUBCHAPTER 1217.2 OPTIONS

CGAP SUBCHAPTER 1217.204 Contracts.

(e)(1) Total contract periods may exceed five years, as approved by the HCA, on a case-by-case basis. The COCO Level 2 shall submit such requests to the HCA via Commandant (G-CPM).

CGAP SUBCHAPTER 1217.208-90 SOLICITATION PROVISIONS AND CONTRACT

CLAUSES

(f) The authority to extend services because of and in accordance with FAR 52.217-8, Option to Extend Services, shall only be used when the total contract period including options does not exceed 5 years. For solicitations where total contract period does exceed 5 years, see 1217.204(e)(1) above.

CGAP SUBCHAPTER 1217.4 LEADER COMPANY CONTRACTING

Requests for written authorization from the Senior Procurement Executive (SPE) to use leader company contracting shall be submitted via Commandant (G-CPM).

CGAP SUBCHAPTER 1217.5 INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT

CGAP SUBCHAPTER 1217.501 Definition.

If the legal instrument to be used does not involve the exchange of funds or property at the time it is signed, but will ultimately involve such exchange during its effective period, then the instrument must be signed by a contracting officer. Likewise, in situations where a contingent liability exists, such as damage to bailed property, the instrument must be signed by a contracting officer. The contracting

officer signing the instrument shall have the signature authority which meets or exceeds the estimate/dollar amount of the legal instrument involved. The following transactions are not subject to FAR and do not require approval/signature of a warranted contracting officer: leases, utility payments under host/tenant agreements, host/tenant agreements or other related support agreements, any real estate transaction effected under the Federal Property Management Regulations or the Uniform Relocation Assistance and Real Property Acquisition Regulations.

CGAP SUBCHAPTER 1217.503 Determination and findings requirements.

The COCO, either Level 1 or Level 2, shall sign the determination and finding (D&F) required in FAR 17.503.

CGAP SUBCHAPTER 1217.503-90 OMB CIRCULAR A-76 GUIDANCE ON INTERSERVICE SUPPORT AGREEMENTS

a. In accordance with the Office of Management and Budget Circular No.A-76 Revised Supplemental Handbook, Performance of Commercial Activities (March 1996), new or expanded interservice support requests must be justified by a cost comparison. This applies unless the interservice support agreement (ISSA) was placed prior to 1 October 1997, and unless otherwise exempt from the cost comparison requirements of the Revised Circular. ISSA's that have been the subject of a cost comparison with the private sector may, at the customer agency's discretion, be used to accept new or expanded work. This may be done without further cost comparison on the customer or provider agency's part, until the provided agency's workload increases by 30 percent or 65 FTEs, at which time another provider cost comparison is required.

b. In accordance with FAR Subpart 17.5, Interagency Acquisitions Under the Economy Act, orders to purchase supplies or services under contracts entered into or administered by another department may be placed with other departments under the Economy Act only if:

(1) The purchase is appropriately made under an existing contract that the servicing department/agency entered into, before the requesting agency's order was placed, in order to meet the requirements of the servicing agency for the same or similar goods or services;

CH-1

17-2

(2) The servicing unit/agency is better qualified to enter into

or administer the contract for such goods or services because they possess capabilities or expertise not available within the Coast Guard;

(3) The servicing agency is specifically authorized by law or regulation to purchase the goods and services on behalf of other agencies; or

(4) The purchase is authorized by an executive order or specifically allowed elsewhere in the FAR.

CGAP SUBCHAPTER 1217.504-90 Ordering procedures.

(a) When using MIPRS, the contracting officer shall use the guidance set forth under enclosure (12), Military Interdepartmental Purchase Requests (MIPRS), to place orders for supplies and nonpersonal services with a military department or other Federal agency where use of a MIPR is acceptable.

(b) Contracting officers should note that procedures discussed in this subchapter and enclosure (12) allow servicing agencies to either pay costs from their own funds (subject to reimbursement via an interagency billing process) or to arrange for its contractors to bill the Coast Guard directly. The reimbursement method is generally known as a Category I MIPR and the direct fund citation method is identified as Category II (for a fuller explanation see enclosure (12), pages 4 and 5). Both contracting and technical personnel should be aware that DOD billing delays can be quite lengthy and initial DOD billing may lack specific information needed to properly charge costs to the correct appropriation, allotment fund control codes (AFCs), or projects. Category I MIPRS, therefore, are the least advantageous from a funds management perspective and may cause considerable difficulty for the technical or project office. Category I MIPR's should be carefully considered for projects using AC&I funds, AFC 41,42,43, or 45, or which involve service delivery over more than a single fiscal year. Where the servicing agency will not accept a Category II MIPR, explicit instructions concerning billing information shall be included on the MIPR form (block (a)) or in an attached statement of work.

CGAP SUBCHAPTER 1217.504-91 Applicability.

The guidance is applicable to MIPRS of any value when the servicing agency proposes to procure their supplies or nonpersonal services from a contractor. The contracting officer shall adhere to this guidance, where applicable, when the supplies will be furnished from the servicing agency's supply or stock system or when the nonpersonal services

will be rendered by the servicing agency's personnel/resources; however, at any event, the determination to issue the MIPR, as required by CGAP Subchapter 1217.503, must be written and placed in the official MIPR file.

CGAP SUBCHAPTER 1217.570 Signature authority.

Contracting officers shall have the signature authority which meets or exceeds the estimate/dollar amount of the interagency agreement.

CGAP SUBCHAPTER 1217.90 Acquisition of Products/Services with Special Coast Guard Contracting Considerations.

CGAP SUBCHAPTER 1217.9000 Scope of Subpart.

Special contract considerations are enumerated in the following paragraphs to detail requirements for Coast Guard-unique requirements.

CGAP SUBCHAPTER 1217.9001 Acquisition of livestock products.

(a) General. Public Law 85-765, as amended, commonly known as the Humane Slaughter Act of 1958 (7 U.S.C. 1901-1902, 1904-1906), provides certain restrictions on the procurement of livestock products by Federal agencies and instrumentalities. The Act states the policy of the United States to be that the slaughtering of livestock, and the handling of livestock in connection with slaughter, shall be carried out only by humane methods. In essence, the Act prohibits the purchase by the Federal Government of livestock products produced or processed by any slaughter or processor which in any of its plants (or in the plants of an affiliated slaughter or processor) slaughters, or handles in connection with slaughter, livestock by any method other than humane.

(b) Definition of livestock products. "Livestock products" means any article of food, or any article intended for or capable of being used as food, for either humans or animals, which is derived or prepared, in whole or in part, from slaughtered cattle, calves, horses, mules, sheep, swine, or goats. Livestock products do not include (a) supplies, the animal product portion of which is less than 5 percent by weight of the net unit weight, and (b) poultry.

(c) Exception. The requirements of this section do not apply to contracts for livestock products, executed and to be performed outside the United States, its possessions, and Puerto Rico.

CGAP SUBCHAPTER 1217.91 Coast Guard Procedures for Special Contracting Requirements.

CGAP SUBCHAPTER 1217.9100 Contracting for Quarters.

Guidelines for rates for contract quarters are contained in Appendix B of the Joint Travel Regulation for temporary duty outside the continental United States. Appendix D of the Joint Travel Regulation contains the rates for temporary duty within the continental United States. These rates are subject to change monthly so every effort should be made to obtain the most recent information possible.

CGAP SUBCHAPTER 1217.9101 Contracting for Subsistence Services.

When Government dining facilities are unavailable (temporarily suspended), contracting officers are authorized to contract for subsistence services to include both facilities and meal catering. Guidelines on authorization for subsistence support of Coast Guard Dining Facilities (CGDFs) and Private Messes Afloat (PMA) are in COMDTINST M4061.3 (Series), Subsistence Manual.

CGAP SUBCHAPTER 1217.9102 Contracting for Meals and Refreshments.

Approval of the COCO Level 2 shall be obtained when expected amounts for contracted meals exceeds 150% of the fixed daily allowance provided in the Federal Travel Regulations (FTR) and Joint Federal Travel Regulation (JFTR).

CGAP SUBCHAPTER 1217.92 Contracting for Containment and Clean-up of Oil and Hazardous Substances Spills.

CGAP SUBCHAPTER 1217.9200 Scope of subpart.

The Coast Guard responsibilities for the removal of oil and hazardous substances in waterways and adjoining shorelines are specified

in the National Contingency Plan, 40 CFR 300, the Federal Water Pollution

17-5

CH-1

Control Act of 1971, as amended, the Comprehensive Environmental Response Cleanup and Liability Act (CERCLA) of 1980, as amended, and the Oil Pollution Act (OPA) of 1990.

CGAP SUBCHAPTER 1217.9201 General.

In order to expedite the processing of contracts for containment and clean-up of oil and hazardous substance spills, the preferred Coast Guard method of contracting is through the placement of orders against Basic Ordering Agreements (BOAs) as defined in FAR 16.703, using a time and materials pricing arrangement; however, other methods of contracting can be used when appropriate.

CGAP SUBCHAPTER 1217.9202 Reserved.

CGAP SUBCHAPTER 1217.9203 Competition.

(a) The nature of contracting for containment and clean-up of oil and hazardous substances makes full and open competition impossible; however, competition shall be obtained to the maximum extent possible as governed by the response time needed in any given emergency. These conditions are documented by Commandant (G-CPM) in a Class Justification for Other Than Full and Open Competition which Coast Guard contracting officers can use for all contracts and orders for oil and hazardous substance clean-up services. (b) Market Survey. MLC contracting officers shall conduct market surveys for additional sources every three years, using Commerce Business Daily synopses and other appropriate techniques. Any sources expressing an interest in a BOA in the interim shall be provided a solicitation.

(c) Service Contract Act wage determinations. MLC contracting officers shall request wage determinations on an annual basis, or as required, from the Department of Labor (DOL). If possible, the DOL should be requested to make the wage determinations applicable to all contracts for oil and hazardous substance containment and cleanup services in the same geographic areas.

(d) Competition Documentation for each Incident. Orders against BOAs shall not be awarded on a rotational basis among qualified contractors without pricing considerations. Orders shall be awarded to

the contractor who offers the lowest price for those response times determined adequate considering the circumstances involved. Contracting officers (includes OSCs) shall document the following information which shall be included in each order file:

CH-1

17-6

(1) The action(s) taken to obtain competition or the reasons(s) why competition was not feasible.

(2) The name(s) and point(s) of contact for the contractor(s) contacted.

(3) The rationale for awarding an order to the successful offeror.

(4) A written determination that the Service Contract Act applies if the incident is for services and exceeds \$2,500. If the incident requires construction that exceeds \$2,000, the OSC shall contact the MLC contracting officer to determine whether the Davis Bacon Act has been incorporated into the BOA. If the Davis Bacon Act has been incorporated into the BOA, provide a written determination that the Davis Bacon Act applies. If the Davis Bacon act has not been incorporated into the BOA, and the incident requires construction that exceeds \$2,000, the MLC contracting officer must contract for the required construction.

CGAP SUBCHAPTER 1217.9204 Authorization to proceed.

(a) Coast Guard OSCs shall issue a written Authorization to Proceed (ATP) when it becomes necessary to authorize a contractor to commence performance of oil or hazardous substance clean-up services against existing BOAs. ATPs shall not exceed \$25,000 per incident. During the initial stages of an incident, OSCs may verbally authorize a contractor to commence performance, provided an ATP is issued within 24 hours confirming the verbal authorization. As a minimum, the ATP shall include reference to: (1) the Federal Project Number; (2) the BOA number; (3) maximum dollar value of the commitment; (4) cognizant MLC point of contact; (5) accounting office address; (6) contractor's name, address, point of contact, and signature; and (7) name and signature of the OSC.

(b) The Coast Guard OSC shall notify the MLC(fcp) by message and/or forward a copy of the ATP by overnight mail or FAX within 24 hours after issuance of the ATP.

(c) The Coast Guard OSC shall prepare all competition documentation required by CGAP Subchapter 1217.9203 and provide it, along with a copy of the ATP, to the MLC(fcp) within 3 days after issuance of the ATP.

(d) This subchapter is not mandatory for Coast Guard OSCs in the MLCPAC area when the incident is \$50,000 or less. When the incident is

17-7

CH-1

within this threshold, the Coast Guard OSC shall prepare and distribute the order. The Coast Guard OSC shall forward a copy of the order and the supporting competition documentation required by CGAP Subchapter 1217.9203 to MLCPAC(fcp) within 3 days of the incident.

(e) This subchapter is also not mandatory for Coast Guard OSCs in the MLCLANT area if all of the following conditions apply: the COCO of MLCLANT (fcp) authorizes the applicable OSC to prepare and distribute the BOA order; the incident is \$50,000 or less; and the OSC forwards a copy of the BOA order and the supporting competition documentation required by CGAP Subchapter 1217.9203 to MLCLANT (fcp) within 3 days of the incident.

CGAP SUBCHAPTER 1217.9205 Issuing orders against BOAs.

The MLC(fcp) shall review the ATP issued by the OSC and issue the confirming BOA order, except see CGAP Subchapter 1217.9204(d) and (e) above. The MLC (fcp) shall distribute the order to the Coast Guard Finance Center within 7 working days of an incident for the purpose of documenting and recording the obligation of funds. All invoices will be paid by the Coast Guard Finance Center.

CGAP SUBCHAPTER 1217.9206 BOA order number.

The BOA order number (delivery or task) consists of the BOA contract number plus the individual order number. The individual order number shall be consistent with the procedure set forth at CGAP Subchapter 1204.602-90(c)(6)(iv). If additional identification is needed, i.e, FPN, MSO port code, number of orders per incident, the identification shall be placed on the order in such a location as to separate it from the order number.

CGAP SUBCHAPTER 1217.9207 BOA order, file documentation, and file maintenance.

Issuance of the BOA order, file documentation, and file maintenance is the responsibility of the MLC(fcp), except see CGAP Subchapter 1217.9204(d) and (e) above. The following minimum file documentation must be maintained for each order issued against a BOA: (1) a copy of the message sent by District (m) that assigns the FPN and fund ceiling (this normally includes evidence of funds availability); (2) a record of the sources contacted or, if only one source was contacted, the reasons why competition was not feasible and why the particular contractor was selected (this record should include dates, names of individuals, companies, and factors influencing choice); (3) a copy of the ATP issued by the OSC and all competition documentation required by CGAP Subchapter 1217.9203; (4) a copy of the order issued on a OF-347; (5) modifications,

CH-1

17-8

if any, to the order issued on an SF-30; and (6) copies of invoices certified by the OSC together with supporting documentation.

CGAP SUBCHAPTER 1217.9208 Non-BOA purchases of supplies/services.

When supplies or services are required that are not covered under an existing BOA, the requirement shall be referred to the MLC contracting officer.

(a) Contracting Authority (Other than OSC). If the MLC(fcp) contracting officer agrees, a field contracting activity may elect to issue purchase orders for non-BOA supplies or services if the requirement is within, and is not likely to exceed at some future date, the field activities' contracting authority.

(b) OSC Contracting Authority. If the MLC(fcp) contracting officer cannot be contacted in a timely manner, Coast Guard OSCs are authorized to issue purchase orders for non-BOA supplies or services, on an emergency basis only, not to exceed \$25,000 per incident. The OSC must contact the MLC(fcp) by message and/or forward a copy of the purchase order and competition documentation required by CGAP Subchapter 1217.9203 by overnight mail or FAX within 24 hours after exercising this authority. If a message is used to notify the MLC(fcp), all information contained in the purchase order and the competition documentation must be summarized in the message. The OSC, in his/her contracting officer capacity, is required to advise the contractor, when any purchase order for services exceeding \$2,500 is issued, that the Service Contract Act of 1965, as amended, is applicable.

CGAP SUBCHAPTER 1217.9209 Disposal of salvageable products.

OSCs shall keep an accurate record of the quantity of recovered product suitable for reclamation or sale. The General Services Administration has declined to take custody of any recovered oil since they do not have appropriate storage facilities. The contracting officer may initiate action for sale of the recovered oil, with the proceeds being applied as a credit to the clean-up costs.

17-9

CH-1

CGAP CHAPTER 1218

(RESERVED)

CGAP CHAPTER 1219 SMALL BUSINESS PROGRAMS

CGAP SUBCHAPTER 1219.2 POLICIES

CGAP SUBCHAPTER 1219.201 General policy.

(c) The Coast Guard's Small Business Program Officer is Commandant (G-CPM-S/I) and shall be an appointed Small Business Specialist (SBS). The Coast Guard's SBS shall be appointed by the Director of Finance and Procurement, as delegated by TAM Subchapter 1219.201(c). The SBSs shall be responsible for the tasks outlined in TAM Subchapter 1219.201(e) for their respective activity. Tasks may be further delegated by the SBS to designated Assistant Small Business Specialists (ASBSs) in cooperation with Commandant (G-CPM-S/I).

CGAP SUBCHAPTER 1219.202 Specific policies.

CGAP SUBCHAPTER 1219.202-270 Procurement forecast.

(b)(1) Responsibility. The Small Business Program Officer, Commandant (G-CPM-S/1), is responsible for collecting, analyzing, and submitting all procurement forecast items to S-40. Contract opportunities valued over \$100,000 are those new opportunities inclusive of options. This does not apply to: options and delivery/task orders under current

contracts, and military interdepartmental purchase requests. For planning purposes, the cognizant Small Business Specialist/Assistant (SBS) is encouraged to review all completed procurement forecast items. Electronic preparation of the forecast is discussed in (b)(2) below.

(b)(2) Preparation and approval. Preparation and submission of the data elements in DOT F 4220.12 in an Excel Spreadsheet format are preferred; however, to ensure uniformity, arrangements must be made with Commandant (G-CPM-S/1) prior to preparation. Each procurement forecast and update shall be approved by the cognizant COCO level 2. This approval may be accomplished either on each DOT Form F 4220.12 or via a cover memorandum on DOT F Form 4220.12's that have been grouped together for submission. Copies of approved procurement forecast items and updates shall be placed in the solicitation and contract files. A copy of the approved procurement forecast for each proposed acquisition in the upcoming fiscal year shall be grouped together and submitted by each COCO Level 2 to Commandant(G-CPM-S/1) no later than August 15. Updates to current forecasted items and new approved forecasted items shall be grouped together and submitted to Commandant (G-CPM-S/1) no later than March 15. Report number RCN-4200-3 applies.

19-1

CH-1

CGAP SUBCHAPTER 1219.202-5 Data collection and reporting requirements.

CGAP SUBCHAPTER 1219.202-590 Submission of 10 USC 2323 Data.

In accordance with Section 2323 of Title 10, United States Code, contract goals for small disadvantaged businesses and certain institutions of higher education as amended, contracting officers shall incorporate into Section H of solicitations and contracts issued effective 1 October 1995 the clause substantially as follows:

10 U.S.C. 2323, Contract goals for small disadvantaged business and certain institutions of higher education, enacted by Public Law 103-355, requires submission of data on contracts and subcontracts awarded to small disadvantaged businesses, historically black colleges and universities, and minority institutions. The contractor agrees to submit, upon request from the contracting officer, information as may be required by the government to meet reporting requirements set forth under 10 U.S.C. 2323.

CGAP SUBCHAPTER 1219.202-591 Submission of monthly reports

on Major Procurement Preference
Program goal achievements.

The submission of a Coast Guard-wide monthly report on major procurement preference program goals is required by the Department of Transportation and the Small Business Administration. The report will be taken from the Contract Information System (CIS) by Commandant (G-CPM-S/1) no later than the 15th of the month after the month being reported.

CGAP SUBCHAPTER 1219.5 SET-ASIDES FOR SMALL BUSINESS

CGAP SUBCHAPTER 1219.501 General.

(b) Prior to issuing a solicitation or synopsis (when a synopsis is required), the contracting officer shall submit the purchase request package including the results of market research in accordance with FAR Part 10 (as an attachment to the CG 5080) to the SBS or designee at the contracting activity. The SBS or designee, as appropriate, shall review and identify procurements suited for the 8(a) program before considering a small business set-aside. If a small business set-aside cannot be identified, then the procurement will become an unrestricted competitive procurement. The results of the review shall be reflected on form CG-5080, Small Business Review Form. All applicable entries

CH-1

19-2

shall be completed and the form shall be kept in the solicitation/contract file.

CGAP SUBCHAPTER 1219.501-90 Precedence of directed sources
of supply.

Coast Guard responsibility to make purchases mandated by FAR Part 8 takes precedence over the small business programs detailed in FAR Part 19.

CGAP SUBCHAPTER 1219.502-3 Partial set-asides.

The exception authority (on a case by case basis) from not making a partial set-aside if there is a reasonable expectation that only two concerns (one large and one small) with capability to perform will submit offers, is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1219.505 Rejecting Small Business

Administration recommendations.

(b) The authority to render a decision pertaining to an appeal by the Small Business Administration Procurement Center Representative (SBAPCR) of the contracting officer's rejection of the SBAPCR's recommendation is delegated to the COCO Level 2.

(c) All authority under FAR 1219.505(c)(1) is retained by the HCA.

(d) All authority under FAR 1219.505(d) is retained by the HCA.

CGAP SUBCHAPTER 1219.506 Withdrawing or modifying Small Business set-asides.

(b) Resolutions of disagreements between the contracting officer and activity SBS shall be at a level no lower than the COCO.

CGAP SUBCHAPTER 1219.6 CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF ELIGIBILITY

CGAP SUBCHAPTER 1219.602 Procedures.

CGAP SUBCHAPTER 1219.602-1 Referral.

In addition to the requirements of TAM Subchapter 1219.602- 1, the contracting officer shall send a copy of the determination concurrently to Commandant (G-CPM/S-1).

19-3

CH-1

CGAP SUBCHAPTER 1219.602-3 Resolving differences between the agency and the Small Business Administration.

(c) A draft copy of the formal appeal shall be submitted to Commandant (G-CPM), for review prior to submitting the appeal to the SBA Central Office.

CGAP SUBCHAPTER 1219.7 THE SMALL BUSINESS SUBCONTRACTING PROGRAM

CGAP SUBCHAPTER 1219.704 Subcontracting Plan Requirements.

CGAP SUBCHAPTER 1219.704-70 Reporting Requirements.

The cognizant Small Business Specialist at each activity shall collect, review, and forward the first semi-annual SF-294 (where required), Subcontracting Report for Individual Contracts, and the original of each annual SF-295 (where received), Summary Subcontract Report, for each contract requiring a subcontracting plan to Commandant (G-CPM-S/1). G-CPM-S/1 will forward a copy to Director, OSDDBU upon review. Contractor submission dates are reflected on the back of the forms. Reports are due to G-CPM-S/1 fifteen days after the due date. Any final reports received by the contracting officer during the reporting period shall be included in the next semiannual report. RCN-4200-7 applies.

CGAP SUBCHAPTER 1219.705 Responsibilities of the contracting officer under the subcontracting assistance program.

CGAP SUBCHAPTER 1219.705-2 Determining the need for a subcontracting plan.

The contracting officer shall send a copy of the approved determination that there are no subcontracting opportunities to Commandant (G-CPM/S-I) for forwarding to the Director, Office of Small and Disadvantaged Business Utilization, (S-40).

CGAP SUBCHAPTER 1219.705-490 Reviewing the subcontracting plan.

(a)(3) Subcontracting plans required by FAR 19.702 shall be reviewed by the activity SBS or designee before commencing negotiations with offerors and after bid opening (only the plan from the apparent successful bidder).

CH-1 19-4

CGAP SUBCHAPTER 1219.705-6 Postaward responsibilities of the contracting officer.

Upon award, the contracting officer shall send two copies of the final approved subcontracting plan that was incorporated into the contract clearly annotated with resultant contract number to Commandant(G-CPM/S-I). One copy will be forwarded to Director, OSDDBU.

CGAP SUBCHAPTER 1219.8 CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8(a) PROGRAM)

CGAP SUBCHAPTER 1219.803 Selecting acquisitions for the 8(a) Program.

Only general information regarding upcoming requirements may be released to 8(a) firms. Technical offices, contracting personnel, and SBS or designees shall not review or accept Statements of Work prepared by 8(a) firms, nor shall they give detailed information about their planned actions/requirements. Per 13 CFR 124-308(g), this includes the release of the draft SOWs and SOWs to any 8(a) firm prior to receiving an acceptance letter from the Small Business Administration. Exception: Sole source 8(a) requirements processed in accordance with FAR Part 13 under the DOT/SBA Memorandum of Understanding.

CGAP SUBCHAPTER 1219.804 Evaluation, offering, and acceptance.

CGAP SUBCHAPTER 1219.804-4 Repetitive acquisitions.

For any requirement which was previously procured through the 8(a) program, but which is now being proposed for reprocurement outside of the program, a written determination must be submitted to Commandant (G-CPM-S/1) for processing and approval to the Department of Transportation's Office of Small and Disadvantaged Business Utilization (OSDBU). The determination should address all pertinent facts related to the acquisition, including the incumbent 8(a) firm's name, impact on the 8(a) firm's business, and whether SBA has been advised of the contracting officer's determination. This clearance and approval must be obtained prior to proceeding with any public notice or solicitation effort. Procurement milestones should contain this review and processing time. Commandant (G-CPM-S/I) shall review and forward the determination to the OSDBU within 5 working days of receipt of an acceptable submission.

CGAP SUBCHAPTER 1219.810 SBA appeals.

The authority under FAR 19.810(a), (b), and (c) is retained by the Head of the Contracting Activity.

CGAP SUBCHAPTER 1219.812 Contract administration.

(d) If the contracting officer determines that the Small Business Administration (SBA) does not intend to waive the termination requirement, and termination of the contract would severely impair attainment of the agency's program objective or mission, and the contracting officer submits a waiver request to SBA, a copy of such waiver must be sent simultaneously to the HCA. The HCA retains the authority under FAR 19.812(d) for confirmation or withdrawal of the request for waiver.

CGAP SUBCHAPTER 1219.891 Superfund Minority Contractors Utilization Report.

(a) Section 105(f), (Public Law 99-499) of the Comprehensive Environmental Response Cleanup and Liability Act, as amended, requires any Federal agency awarding contracts utilizing Superfund monies (1) to consider the availability of qualified minority contractors for such awards, and (2) to annually report minority contractor participation and the efforts taken to encourage the use of minority firms. This includes, but is not limited to, contracts, subcontracts, Small Business Administration 8(a) Program initiatives, and subagreements.

(b) The Coast Guard, as a recipient of Superfund monies from the Environmental Protection Agency (EPA), must report annually by 15 November on EPA Form 6005-3, Superfund Minority Contractors Utilization Report and EPA Form 6005-3A, Superfund Minority Contractors Utilization Report-Part 2 (see CGAP Part 1253). RCN-4200-13 applies. Negative reports are required.

(c) The Maintenance and Logistics Commands (fcp) shall report expenditure of any Superfund monies for minority contractors to the National Pollution Funds Center (NPFC) using the EPA Forms specified in paragraph (b). These reports shall be submitted to the NPFC annually by 30 October. Negative reports are required.

(d) Commandant (G-CPM-S/1) will forward to the NPFC, on an annual basis (30 October), a list of outreach efforts such as, small and disadvantaged business conferences, for use in completion of EPA form 6005-3A.

CH-1

19-6

(e) The NPFC shall submit the consolidated Coast Guard report by 15 November using the EPA Forms specified in paragraph (b) to:

Director, Office of Small and Disadvantaged Business
Utilization

Office of Small and Disadvantaged Business (A-149C)
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, DC 20460
Attn: Procurement Under Assistance Program

(f) At the same time the report is forwarded to EPA, the NPFC shall forward a copy of the report to Commandant (G-CPM-S/1)

19-7

CH-1

CGAP CHAPTER 1220

(RESERVED)

CGAP CHAPTER 1221

(RESERVED)

CGAP CHAPTER 1222 APPLICATION OF LABOR LAWS TO GOVERNMENT
ACQUISITIONS

CGAP SUBCHAPTER 1222.1 BASIC LABOR POLICIES

CGAP SUBCHAPTER 1222.101 Labor relations.

CGAP SUBCHAPTER 1222.101-170 DOT Labor Coordinator/Advisor.

(b) The labor advisor for the Coast Guard is Commandant (G-CPM).

CGAP SUBCHAPTER 1222.3 CONTRACT WORK HOURS AND SAFETY
STANDARDS ACT

CGAP SUBCHAPTER 1222.302 Liquidated damages and overtime
pay.

(c)(1) Authority to adjust or release a contractor or
subcontractor from liability for liquidated damages of \$500 or less is

delegated to the contracting officer.

(c)(2) Authority to recommend to the Secretary of Labor an adjustment in or release from liquidated damages greater than \$500 is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1222.4 LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION

CGAP SUBCHAPTER 1222.404-6 Modifications of wage determinations.

(b)(6) The authority to request from the Administrator, Wage and Hour Division, Department of Labor, an extension to the expiration date of the general wage determination, notice of which is published in the Federal Register before award, if an award is not made within ninety (90) days after bid opening, is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1222.406-8 Investigations.

(d) The contracting officer's report to the Department of Labor of violations discovered through labor standard investigations shall be forwarded to the COCO Level 1 or 2 for further processing.

22-1

CH-1

CGAP SUBCHAPTER 1222.406-13 Semiannual Enforcement Reports.

As required by TAM 1222.406-13, contracting activities shall submit a semi-annual report on compliance of enforcement of the labor provisions of the Davis-Bacon Act and Contract Work Hours and Safety Standards Act. This report, Semi-Annual Enforcement Report, (RCN-4200-9) is required by Section 5.7b, Part 5, Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction. The format and instructions for this report are cited at enclosure (14) to these Procedures. Contracting activities shall submit one original copy to Commandant (G-CPM) prior to 20 April and 20 October. Negative reports are not required.

CGAP SUBCHAPTER 1222.6 WALSH-HEALY PUBLIC CONTRACTS ACT

CGAP SUBCHAPTER 1222.604 Exemptions.

CGAP SUBCHAPTER 1222.604-2 Regulatory exemptions.

(b)(1) Requests to exempt specific contracts or classes of contracts shall be submitted through Commandant (G-CPM) to the SPE.

CGAP SUBCHAPTER 1222.608 Procedures.

(b) Breach of stipulation. Contracting officers shall send a copy of the information to Commandant (G-CPM).

CGAP SUBCHAPTER 1222.8 EQUAL EMPLOYMENT OPPORTUNITY

CGAP SUBCHAPTER 1222.807 Exemptions.

(c) Exemption requests requiring HCA approval shall be submitted through Commandant (G-CPM).

CGAP SUBCHAPTER 1222.12 NONDISPLACEMENT OF QUALIFIED WORKERS

UNDER CERTAIN CONTRACTS

CGAP SUBCHAPTER 1222.1203 Applicability.

CGAP SUBCHAPTER 1222.1203-190 General.

Any concerns or questions about a solicitation and the application of the policy and definitions at FAR 22.1201 regarding Non-displacement of Qualified Workers under Certain Contracts should be referred to Commandant (G-CPM). Commandant (G-CPM) will coordinate concerns with Commandant (G-LPL).

CH-1

22-2

CGAP SUBCHAPTER 1222.1206 COMPLAINT PROCEDURES

(b) The contracting officer shall provide a copy of the complaint documentation to Commandant (G-CPM) at the same time it is submitted to the Department of Labor.

CGAP SUBCHAPTER 1222.13 DISABLED VETERANS AND VETERANS OF VIETNAM ERA

CGAP SUBCHAPTER 1222.1303 Waivers.

(c)(2) D&Fs requiring SPE approval shall be submitted through

Commandant (G-CPM).

CGAP SUBCHAPTER 1222.1308 Contract clauses.

(a)(1)(ii)(B) and (a)(2)(ii) Waiver requests requiring the approval of the SPE shall be submitted through Commandant (G-CPM).

CGAP SUBCHAPTER 1222.14 EMPLOYMENT OF WORKERS WITH DISABILITIES

CGAP SUBCHAPTER 1222.1403 Waivers.

(c)(2) D&Fs requiring SPE approval shall be submitted through Commandant (G-CPM).

CGAP SUBCHAPTER 1222.1408 Contract clauses.

(a)(2) and (b)(ii) Waivers requiring the SPE approval shall be submitted through Commandant (G-CPM).

22-3

CH-1

CGAP CHAPTER 1223 ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

CGAP SUBCHAPTER 1223.1 POLLUTION CONTROL AND CLEAN AIR AND WATER

CGAP SUBCHAPTER 1223.104 Exemptions.

(c) (I) Contracting activities shall submit requests for exemptions through Commandant (G-CPM).

CGAP SUBCHAPTER 1223.106 Delaying award.

The notification required by TAM 1223.106 shall be in writing and submitted to Commandant (G-CPM) for transmittal to the Senior Procurement Executive.

CGAP SUBCHAPTER 1223.4 USE OF RECOVERED MATERIALS

CGAP SUBCHAPTER 1223.401 Authorities.

(c) The Environment Management Division (G-SEC-3), within the systems

Engineering Directorate, is the Pollution Prevention and Recycling Program Manager.

CGAP SUBCHAPTER 1223.403 Policy.

These procedures apply to all Coast Guard acquisitions. Program officials and contracting officers shall comply with the Department of Transportation's Affirmative Procurement Program (APP).

CGAP SUBCHAPTER 1223.404 Procedures.

(a) Procuring activities shall report all purchases of items covered under the DOT Affirmative Procurement Program (APP), regardless of the dollar amount, to the Chief of the Contracting Office via the format provided in Enclosure (16). Each Chief of the Contracting Office will consolidate the responses and forward the report to Commandant (G-CPM) by 15 November of each year. G-CPM will consolidate the responses and transmit the information to DOT.

(b) (3) Program offices shall use the format in Enclosure (17), Requisitioner Determination - Coast Guard Procurement Preference Program for Recovered Materials, in lieu of Attachment 6 to Appendix A of the TAM. The Requisitioner Determination Form shall accompany procurement requests for all nonfederal EPA designated items; including, but not limited to, purchase orders,

23-1

contracts, orders and modifications submitted to contracting activities.

23-2

CGAP CHAPTER 1224 PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

(RESERVED)

CGAP CHAPTER 1225 FOREIGN ACQUISITION

CGAP SUBCHAPTER 1225.1 BUY AMERICAN ACT - SUPPLIES

CGAP SUBCHAPTER 1225.102 Policy.

(b) (2) The authority to make a nonavailability determination when products are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities, of a satisfactory quality is delegated to the COCO either Level 1 or Level 2.

CGAP SUBCHAPTER 1225.105 Evaluating offers.

(a),(c) The authority to otherwise determine that the offered price of a domestic end product is unreasonable after application of specified percentages is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1225.2 BUY AMERICAN ACT-CONSTRUCTION MATERIALS

CGAP SUBCHAPTER 1225.202 Policy.

(a) (3) The COCO Level 2 is designated to determine that use of a particular domestic construction material would be impracticable.

CGAP SUBCHAPTER 1225.204 Evaluating offers of foreign construction material.

(a) The COCO Level 2 is designated to determine that using a particular domestic construction material would unreasonably increase the cost or would be impracticable.

(b) The authority to approve proposed awards after submittal of the required documentation is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1225.3 BALANCE OF PAYMENTS PROGRAM

CGAP SUBCHAPTER 1225.302 Policy.

(c) The authority to approve the use of a greater than 50 percent cost differential of foreign over domestic construction materials for real property outside the U.S. is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1225.4 TRADE AGREEMENTS

CGAP SUBCHAPTER 1225.402-90 Policy.

(b) (3) Coast Guard procurements of foreign end products are covered by the limitations of the Trade Agreements Act (TAA) effective 1 January 1996. End products may be purchased from designated countries, NAFTA countries or Caribbean Basin countries as defined in FAR 25.401.

(c) (3) Waivers must be approved by the agency head with interagency review and coordinated in accordance with the terms of Section 302(b)(2) of the TAA. Completion of a waiver shall be discussed with Commandant (G-LPL) prior to any such request being generated.

CGAP SUBCHAPTER 1225.6 CUSTOMS AND DUTIES

CGAP SUBCHAPTER 1225.605 Contract clause.

Before inserting any list of supplies to be accorded duty-free entry into the contract schedule, the contracting officer shall review the circumstances with legal counsel to ascertain whether the supplies may qualify for duty-free entry under 19 U.S.C. 1309.

CGAP SUBCHAPTER 1225.9 ADDITIONAL FOREIGN ACQUISITION CLAUSES

CGAP SUBCHAPTER 1225.901 Omission of audit clause.

(c) The contracting officer shall forward to the HCA via Commandant (G-CPM) the documentation required by FAR 25.901(d).

25-2

CGAP CHAPTER 1226 OTHER SOCIOECONOMIC PROGRAMS

CGAP SUBCHAPTER 1226.3 HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY INSTITUTIONS

CGAP CHAPTER 1226 OTHER SOCIOECONOMIC PROGRAMS

CGAP SUBCHAPTER 1226.3 HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY INSTITUTIONS

CGAP SUBCHAPTER 1226.390 Scope of subpart.

(a) This subchapter provides policies and procedures to support Executive Order (E.O.) 12928 of 16 September 1994 entitled Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs). The Order established an objective for all Executive agencies to increase the opportunities of HBCUs to participate in and benefit from Federal programs.

CGAP SUBCHAPTER 1226.392 General Policy.

(a) In furtherance of E.O. 12928, the contracting officer and the Small Business Specialist (SBS) or designee within an activity shall review each purchase request for potential subcontracting opportunities for HBCUs. The results of the review shall be reflected on the form CG-5080, Small Business Review form. Typically, acquisitions for research and development, studies, and services will apply. One supervisory level above the Contracting Officer shall resolve any dispute between the contracting officer and the SBS.

(b) When the Contracting Officer and SBS determine there is a reasonable likelihood that subcontracting opportunities for HBCUs may exist under a proposed acquisition, the contracting officer shall include the following provision under section L of the solicitation:

SUBCONTRACTING WITH HISTORICALLY BLACK COLLEGES
AND UNIVERSITIES (HBCUS)

(1) Executive Order 12928 of 16 September 1994 established an objective for all Executive agencies to increase the opportunity for Historically Black Colleges and Universities (HBCUs) to participate in and benefit from Federal programs.

(2) Attachment (fill in the number) is a list of HBCUs. If the offeror believes that any of these HBCUs may be able to participate in the performance of the work required under this solicitation, the offeror is encouraged to contact them for this potential subcontracting opportunity.

(end of provision)

(c) Copies of HBCUs listing are available from Commandant (G-CPM-S/1).

CGAP SUBCHAPTER 1226.9003 Encouraging HBCUs participation in acquisitions.

Commandant (G-H) is responsible for implementing the HBCU Program for the U. S. Coast Guard. The contracting officer may consult with Commandant (G-H) on the program and the listing of HBCUs and Commandant Instruction 5354.3 (series) HBCU Program, which prescribes policy and procedures for implementation of the U.S. Coast Guard HBCU Program.

26-2

CGAP CHAPTER 1227 PATENTS, DATA, AND COPYRIGHTS

CGAP SUBCHAPTER 1227.2 PATENTS

CGAP SUBCHAPTER 1227.203 Patent indemnification of Government by contractor.

CGAP SUBCHAPTER 1227.203-6 Clause for Government waiver of indemnity.

The approving authority for written determination to exempt one or more specific United States patents from the patent indemnity clause is the COCO Level 2. Concurrence of legal counsel is mandatory.

CGAP SUBCHAPTER 1227.3 PATENT RIGHTS UNDER GOVERNMENT CONTRACTS

CGAP SUBCHAPTER 1227.303 Contract clauses.

(a)(3), (b)(2), (c)(3), and (d)(1)(ii) Concurrence of legal counsel is mandatory.

CGAP SUBCHAPTER 1227.304 Procedures.

CGAP SUBCHAPTER 1227.304-1 General.

(a)(3), (5), and (7) The authority to decide contractor appeals regarding insertion of patent right provisions in contracts is the COCO Level 2. Concurrence of legal counsel is mandatory.

(b) The authority to approve the determination that the interests of the United States and the general public will be better served by granting greater rights to an identified invention is delegated to the COCO Level

2. Concurrence of legal counsel is mandatory.

(g)(2),(3),(5),and(6) The authority to initiate march-in proceedings and to decide on the facts and other information is delegated to the COCO Level 2. Concurrence of legal counsel is mandatory.

27-1

CGAP SUBCHAPTER 1227.305 Administration of patent rights clauses.

CGAP SUBCHAPTER 1227.305-4 Conveyance of invention rights acquired by the Government.

(b) The contracting officer shall forward the contractor's disclosure of an invention under a contract via Commandant (G-LPL) to the Chief Counsel (G-L) for processing to the DOT Patent Counsel (C-15) who will determine the proper action to be taken before proceeding.

27-2

CGAP CHAPTER 1228 BONDS AND INSURANCE

CGAP SUBCHAPTER 1228.1 BONDS AND OTHER FINANCIAL PROTECTIONS

CGAP SUBCHAPTER 1228.101 Bid guarantees.

CGAP SUBCHAPTER 1228.101-1 Policy on use.

A class waiver approval for construction contracts to be performed overseas is provided. Delegation is hereby made to the COCO Level 2, for authorization of waiver of bid guarantee requirements for construction contracts to be performed overseas. Each such waiver authorization must be in writing, and shall include a determination that bid guarantee requirements are not in the best interest of the government, with supporting rationale for that conclusion.

CGAP SUBCHAPTER 1228.101-2 Solicitation provision or contract clause.

Sealed Bids for construction shall contain a statement that a bid guarantee is not required for bids totaling \$25,000, or less.

CGAP SUBCHAPTER 1228.101-90 Annual bid bonds.

Annual bid bonds shall be submitted to local legal counsel or, if none available, through Commandant (G-CPM) to Commandant (G-LPL) for legal sufficiency. These bonds may also be submitted to Commandant (G-CPM) for safeguarding.

CGAP SUBCHAPTER 1228.105 Other types of bonds.

(a) The advice of legal counsel is mandatory when the contracting officer is considering approval of other types of bonds in accordance with FAR 28.105 and TAM Subchapter 1228.105.

CGAP SUBCHAPTER 1228.106 Administration.

CGAP SUBCHAPTER 1228.106-2 Substitution of surety bonds.

(a) Review of the new surety bond by legal counsel is mandatory when the contracting officer is considering approval of a new surety bond covering all or part of the obligations on a bond previously approved.

CGAP SUBCHAPTER 1228.106-6 Furnishing information.

(c) The authority to approve the release of a certified copy of

28-1

CH-1

the payment bond and the contract for which it was given, and determine the preparation costs to be paid by the requester, is delegated to the COCO Level 2. The advice of legal counsel is mandatory.

CGAP SUBCHAPTER 1228.106-90 Review and approval.

The contracting officer shall examine the bond as to form, sufficiency of surety, and authority of the agent executing the bond. Besides the mandatory legal review of bonds at CGAP Subchapters 1228.105 and 1228.106, legal review of any bond is highly recommended.

CGAP SUBCHAPTER 1228.2 SURETIES AND OTHER SECURITY FOR BONDS

CGAP SUBCHAPTER 1228.203 Acceptability of individual

sureties.

(a) The contracting officer shall retain securities furnished in lieu of surety or sureties on bonds, in a locked safe until it is appropriate to return them to the contractor.

(b) When a certified check in lieu of a bond is provided, the contracting officer shall contact the appropriate bank to confirm that the check is certified and that the funds are available.

CGAP SUBCHAPTER 1228.203-7 Exclusions of individual sureties.

(d) The contracting officer shall submit, via the COCO Level 2, to Commandant (G-CPM) for processing to the HCA, the written justification for a determination that there are compelling reasons justifying acceptance of individual sureties whose names appear on the list entitled List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

CGAP SUBCHAPTER 1228.204-3 Irrevocable Letters of Credit.

To ensure that contractors have all the information needed to successfully bid on procurements, recommend that a reference to OFPP pamphlet No. 7, "Use of Irrevocable Letters of Credit" be placed in the solicitation, or a copy be made available to bidders.

CH-1

28-2

CGAP SUBCHAPTER 1228.3 INSURANCE

CGAP SUBCHAPTER 1228.390 Evidence of Insurance.

(a) The contracting officer shall require the contractor to furnish a certificate(s) of insurance, prior to commencing work, as evidence that the contractor has insurance coverage sufficient to meet the requirements of the contract. The certificate(s) shall be executed by an officer or employee of the insurer authorized to execute such certificates. Each certificate shall contain an expiration date and the endorsement required by FAR 28.302, Notice of cancellation or change.

(b) Insurance requirements shall be adequate, just, and reasonable, and will be predicated on potential loss or damage (not necessarily on the value of the contract). The determination as to type of insurance, amount,

and any related insurance requirements, if different from the Federal Acquisition Regulation, shall be made by the contracting officer with the advice of legal counsel.

(c) If insurance policies and endorsements thereto (or copies) are submitted as evidence of insurance in lieu of the certification of insurance, review by legal counsel is recommended.

28-3

CGAP CHAPTER 1229 TAXES

CGAP SUBCHAPTER 1229.1 GENERAL

CGAP SUBCHAPTER 1229.101 Resolving tax problems.

(a) All submissions requesting assistance for resolving tax problems as required by TAM Subchapter 1229.101 shall be forwarded to Commandant (G-LPL).

(c) (3) Any recommended changes to DOT policy and procedures concerning taxes shall be transmitted via Commandant (G-CPM) and Commandant (G-LPL).

CGAP SUBCHAPTER 1229.2 FEDERAL EXCISE TAXES

CGAP SUBCHAPTER 1229.202 General exemptions.

No tax may be imposed on the sale or transfer of firearms, shells, or cartridges when such articles are purchased with U.S. Coast Guard appropriated funds (14 U.S.C. 655).

CGAP SUBCHAPTER 1229.3 STATE AND LOCAL TAXES

CGAP SUBCHAPTER 1229.304 Matters requiring special consideration.

Contract terms described in FAR 29.304(a) and (b) shall only be used with the prior approval of Commandant (G-LPL). Requests for approval shall include the justification for use of any special tax contract clause.

29-1

CGAP CHAPTER 1230 COST ACCOUNTING STANDARDS (CAS)
ADMINISTRATION

CGAP SUBCHAPTER 1230.2 CAS PROGRAM REQUIREMENTS

CGAP SUBCHAPTER 1230.201 Contract requirements.

CGAP SUBCHAPTER 1230.201-5 Waiver.

(b) Waiver requests to FAR Appendix B, 9904.412-40(c), Assignment of pension cost, shall be submitted to Commandant (G--CPM) for transmittal to the DOT Senior Procurement Executive (SPE) for approval.

30-1

CGAP CHAPTER 1231
CONTRACT COST PRINCIPLES AND PROCEDURES

(RESERVED)

CGAP CHAPTER 1232 CONTRACT FINANCING

CGAP SUBCHAPTER 1232.1 NON-COMMERCIAL ITEM PURCHASE
FINANCING

CGAP SUBCHAPTER 1232.114-90 Unusual Contract financing.

Requests for approval of unusual contract financing arrangements shall be sent to the head of the agency via Commandant (G-CPM).

CGAP SUBCHAPTER 1231.2 COMMERCIAL ITEM PURCHASE FINANCING

CGAP SUBCHAPTER 1232.206 Solicitation provisions and
Contract clauses.

(g)and(g)(2) On a case-by-case basis, requests for HCA approval of installment payment financing arrangements and rates for commercial purchases shall be submitted via Commandant (G-CPM) for coordination with Commandant (G-CFS) and Commandant (G-LPL).

CGAP SUBCHAPTER 1232.4 ADVANCE PAYMENTS FOR NON-COMMERCIAL
ITEMS

CGAP SUBCHAPTER 1232.402 General.

(c)(1)(iii)(A) The authority to authorize, if in the Government's interest, advance payment without interest in excess of \$500,000 is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1232.407 Interest.

(d)(2) The authority to authorize, if in the Government's interest, advance payments, without interest, in excess of \$500,000, under FAR 32.402(c)(1)(iii)(A) using the types of contracts cited under FAR 32.407(d)(1) through (4) is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1232.409 Contracting officer action.

CGAP SUBCHAPTER 1232.409-1 Recommendation for approval.

The contracting officer shall submit recommendations requiring COCO Level 2 approval (see TAM Subchapter 32.402(c)(1)(iii)(A)) via the chain of command. The contracting officer shall submit recommendations requiring DOTBCA (S-20) approval (see TAM Subchapter 32.402(c)(1)(iii)(B))

CH-1

32-1

via the chain of command through their COCO Level 1 or 2 as appropriate to Commandant (G-CPM) who will forward to Commandant (G-LPL) for processing to the DOTBCA (S-20). Evidence of compliance with TAM Subchapter 1232.402(e)(2) must be contained in the documentation provided for approval.

CGAP SUBCHAPTER 1232.409-2 Recommendation for disapproval.

The contracting officer shall submit recommendations for disapproval requiring COCO Level 1 approval (see TAM Subchapter 32.402(c)(1)(iii)(A)) via the chain of command. The contracting officer shall submit recommendations for disapproval requiring DOTBCA (S-20) approval (see TAM Subchapter 32.402(c)(1)(iii)(B)) via the chain of command through their COCO Level 1 or 2 as appropriate to Commandant (G-CPM) who will forward to Commandant (G-LPL) for processing to the DOTBCA (S-20).

CGAP SUBCHAPTER 1232.5 PROGRESS PAYMENTS BASED ON COSTS

CGAP SUBCHAPTER 1232.501 General.

CGAP SUBCHAPTER 1232.501-2 Unusual progress payments.

(a)(3) The authority to approve a contractor's request for unusual progress payments is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1232.502 Preaward matters.

CGAP SUBCHAPTER 1232.502-2 Contract finance office clearance.

(a),(b),(c)(I),and (c)(2) The authority to approve the actions under FAR 32.502-2 is redelegated to the COCO Level 2.

CGAP SUBCHAPTER 1232.504 Subcontracts.

(c) The authority to approve the contractor's consideration to make unusual progress payments to a subcontractor is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1232.6 CONTRACT DEBTS

CGAP SUBCHAPTER 1232.601 Definition.

Coast Guard credit management and debt collection policy and procedures are contained in Commandant Instruction M7300.4 (series), Accounting Manual, at Part 4, Chapter 7.

CH-1

32-2

CGAP SUBCHAPTER 1232.7 CONTRACT FUNDING

CGAP SUBCHAPTER 1232.70 CONTRACT PAYMENTS

CGAP SUBCHAPTER 1232.702 Policy.

CGAP SUBCHAPTER 1232.702-70 Procurement requests.

(a)(1)(i) The funds manager, allotment fund control (AFC) manager, or the appropriation manager (funds certification official) is

the responsible fiscal authority for funds certification. Commands will designate funds certification personnel in writing. Contracting officers shall ensure that funds certifications are made by authorized individuals.

(ii) The contracting officer may accept certified funds submitted by electronic transmission. When certified funds are transmitted by an acceptable and secure electronic means, the funds certification official is not required to forward an original signature funds certification to the contracting officer.

(iii) When funds certification is made "subject to the availability of funds," the contracting officer shall obtain a change to the procurement request which provides funds certification when funds become available. The contracting officer shall also obtain a new procurement request which provides funds certification whenever a change is made to the accounting or appropriation data.

(iv) Funds certification shall be accomplished by complete signature (not initials), title, date, and office symbol, except see subparagraph (a)(1)(ii) above, in the appropriate spaces of Block 5 on Form DOT F 4200.1.1, DOT F 4200.1.2, or DOT F 4200.1.2CG.

(4) Procurement requests for equipment or systems requiring spare parts, either in the initial solicitation or subsequent buys, shall not be processed without optional provisions for acquiring reprourement data to perform follow-on competitive acquisitions. This requirement does not apply to small purchases, purchases under Federal Supply Schedules, and purchases for which spare parts are available competitively in the open market.

(b) The checklist included as enclosure (4) to these procedures may be used by the procurement professional as a

32-3

CH-1

reference guide to assist the technical/program office in the development of the procurement request package and as a reference for review of the formally-submitted purchase request. The procurement professional should question the adequacy of a prospective purchase request or of any aspect of procurement planning for a specific requirement which does not include items on the checklist which, through experience and training, the procurement professional knows are required. The procurement professional should immediately seek the advice of legal counsel whenever doubt exists as to the proper type of funds, or questions arise concerning the applicable funding year. It is understood that not all of the eight (8)

major topics are applicable to every procurement action.

CGAP SUBCHAPTER 1232.703-90 Antecedent liabilities.

(a) Severable service contracts moved off a fiscal year basis should normally be those where the obligation can be solidly estimated and the stream of services is not subject to frequent within scope modifications, such as security contracts or janitorial contracts. (Dining Facility contracts based on the number of meals served or Base Support contracts with variable costs should normally be kept on a fiscal years basis). The contracting officer should give special consideration to DOL increases in wage determinations or similar situations. The contracting officer should identify such situations to the funds manager and recommend that funds be committed or left unobligated at year end if any subsequent contract modification to increase funds will be within the scope of the contract and will occur after the fiscal year has closed.

(b) If a within scope modification is required after the fiscal year in which the contract is funded has closed, the contracting officer needs to ensure that the funds manager certifies that funds are available for the expired fiscal year, not the current fiscal year. Additionally, the contracting officer should be aware that the Financial Resource Management Manual has a very specific procedure for approval of antecedent liabilities. (Chapter 5, Section V, Page 5-63). In general the unit will not be authorized to certify that expired funds are available, even if the unit has an available funds balance for the prior fiscal year. The unit will have to seek that certification from the ATU Budget Officer (District or MLC) or Headquarters funds manager.

CH-1

32-4

CGAP SUBCHAPTER 1232.703-91 Issuance of Construction and Ship Repair Solicitations in Advance of Funding.

(a) Except in unusual circumstances it is not the policy of the Coast Guard to issue solicitations until the contracting officer obtains certification that funds are available. However, there is often a considerable lead time when construction projects are being considered for areas with short working seasons (e.g., Kodiak, AK), or short availability (e.g., ship repair). The Coast Guard must provide continuity of needed projects through the transition from one fiscal year to the next, prevent wasteful year-end spending, and at the same time provide sound fiscal

responsibility in the management of our shore unit program appropriations.

This section announces the initiation of a two-year pilot program in which Chiefs of the Contracting Office (COCOs) may approve issuance of solicitations in the fourth quarter of a fiscal year (FY) for award in the first quarter of the next FY when funds become available. The COCO may also use this authority to issue the solicitation in the first quarter of the fiscal year, before the first quarter's funds have been distributed. Solicitations issued under this authority for which bids or offers are received in the fourth quarter may be awarded in the fourth quarter in the event additional funds become available. The COCO's approval must be in writing and must reside in the official contract file..

In addition to the COCO approval, the pilot program is subject to the following restrictions: (i) inclusion of a notice to bidders/offerors that funds are not presently available (see Notice to Bidders/Offerors below); (ii) units may solicit only up to 100% of their first quarter budgets, based on the Government estimates for the project involved; and (iii) the Commanding Officer of the Coast Guard unit soliciting the construction or ship repair shall certify in writing that the project has a high priority, is intended to be funded in the upcoming fiscal year, and there is no reasonable expectation for the requirement to be cancelled when the next fiscal year funds become available (or if used in the first quarter of a fiscal year, when the first quarter's funds have been distributed). In addition, this authority should not be used for a project for which funding is in doubt based on the current status of the Congressional review of the administration's funding request.

Commandant (G-CPM) will monitor this pilot to ensure sound fiscal and contracting practices are followed. By October 15 of each year, units shall report to Commandant (G-CPM) all solicitations issued in advance of funding for the previous

32-5

fiscal year. By January 15 of each year, units shall report to Commandant (G-CPM) the disposition of all solicitations which were reported the previous October 15.

(b) The following notice shall be included in all solicitations described above which have been issued in advance of funding:

Notice to Bidders/Offerors

Funds are not presently available for this project. No award will be made under this solicitation until funds are available. The Government reserves the right to cancel this solicitation, either before or after the bid opening/closing date.

(c) Prior to issuing such a solicitation, the Contracting Officer shall obtain a certificate from the Commanding Officer with budgetary control over the project as follows:

I certify that this project is a high priority for funding in FY____; that it is budgeted for award in the first quarter of the fiscal year; that this project has priority over unsolicited requirements; and that there is no known reason to expect that this project will be cancelled for lack of funding.

CGAP SUBCHAPTER 1232.7001 Policy.

The COCO Levels 1 and 2 shall ensure that all invoices and vouchers submitted by contractors under contracts receive an in-depth review.

CGAP SUBCHAPTER 1232.7002 Invoice and voucher review and approval.

(b) (1) Contracting activities except Coast Guard Supply Centers, shall use Enclosure (2), Coast Guard Contract Payment Approval, to process payments under contracts which exceed the simplified acquisition threshold under FAR 13.000. Payments shall be processed in compliance with the payment clause contained in the contract, i.e., 52.232-25 Prompt Payment. Enclosure (2), Coast Guard Contract Payment Approval, shall be transmitted to the Project Officer/COTR and the Finance Center by the most expeditious means available.

(3) All contracting offices shall establish local invoice payment approval procedures which: (i) require all invoices to be date/time stamped on the face of the invoice

immediately upon receipt; (ii) allow the Finance Center seven (7) calendar days to enter the invoice payment into DAFIS; and (iii) allow three (3) calendar days for the scheduling/payment process at DAFIS and Treasury. Additional guidance on contract invoice payment may be obtained from the

Finance Center Standard Operating Procedures (SOP).

CGAP SUBCHAPTER 1232.8 ASSIGNMENT OF CLAIMS

CGAP SUBCHAPTER 1232.802 Conditions.

(e)(1) The COCO Level 2 shall receive the written notice of assignment of claim.

CGAP SUBCHAPTER 1232.9 PROMPT PAYMENT

CGAP SUBCHAPTER 1232.903 Policy.

The authority to determine that invoice and contract financing payments may be allowed earlier than the payment due date on a case-by-case basis is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1232.11 ELECTRONIC FUNDS TRANSFER

CGAP SUBCHAPTER 1232.1110-90 Procedures.

(h)(1) The contracting officer shall include a copy of the EFT/Automated Clearing House (ACH) Vendor Payment Enrollment Form to each new contractor upon award of a contract or issuance of a purchase order, Standard Form (SF) 44 or Blanket Purchasing Agreement (BPA). The electronic form may be obtained from the Finance Center Website: <http://www.uscg.mil/hq/FINCEN/Finhome.htm>. Contractors need only be enrolled once unless their EFT information changes.

(h)(2) Each EFT/ACH form you transmit to a contractor/vendor must be accompanied by the notice below which directs the contractor/vendor to remit the EFT/ACH information to the payment office (Finance Center) immediately upon receiving the contract, purchase order, SF44 or BPA; and at least 15 days in advance of remitting the first invoice. This notice complies with the contract clause at FAR 52.232-34, Payment by the Electronic Funds Transfer-Other Than Central Contractor Registration.

32-7

CH-1

(h)(3) Notice to be included with each EFT/ACH form sent to a contractor/vendor:

In order to comply with the FAR clause 52.232-34 contained in your

contract/purchase order/SF44/BPA (mark one) number (), you are directed to complete the attached EFT/ACH Vendor Payment Enrollment Form and provide directly to the Coast Guard payment office at the address given below:

Commanding Officer
US Coast Guard Finance Center
PO Box 4120
Chesapeake, VA 23327

You are hereby advised that failure to submit this information within 15 days after award/acceptance of your procurement may result in non-payment of your invoices in accordance with the terms of the above-cited FAR Clause.

CH-1

32-8

CGAP CHAPTER 1233 PROTESTS, DISPUTES, AND APPEALS

CGAP SUBCHAPTER 1233.1 PROTESTS

CGAP SUBCHAPTER 1233.103 Protests to the agency.

(f) (1) The submission required by FAR 33.103 (the determination authorizing award of a contract prior to resolution of a protest) shall be submitted to Commandant (G-LPL). If deemed necessary, Commandant (G-LPL) will coordinate the response with Commandant (G-CPM), prior to submitting it to the Assistant Secretary for Administration (M-1), via the Senior Procurement Executive.

(f) (3) The contracting officer shall respond to a protest filed only with the agency after award. Coordination with Commandant (G-LPL) is mandatory. All responses to a protester should address the protester's allegations, the agency's response to the allegations, conclusions, and the contracting officer's decision to deny or sustain the protest.

CGAP SUBCHAPTER 1233.104 Protests to the General Accounting Office (GAO).

(a) General Procedures. The HCA responsibilities of TAM 1233.104(a) are delegated to the contracting officer. The contracting officer shall notify Commandant (G-LPL) whenever a protest is filed. The contracting officer's statement and all of the information required at FAR

33.104(a)(3)(ii) for the agency report is to be submitted to Commandant (G-LPL) in triplicate within 10 work days of the contracting officer's notification of the protest, or within 4 work days in the case of a determination to use the express option. Commandant (G-LPL) will then review and coordinate with the contracting officer as necessary, and prepare the agency's legal analysis. Commandant (G-LPL) has the responsibility to provide the information required by FAR 33.104(a)(7) to GAO.

(4) The contracting officer shall give the notice of protest to the contractor if award has been made, or if no award has been made, to all interested parties. This notice shall be in writing and shall be made a part of the protest file.

(i) The contracting officer is responsible for sending copies of the protest report to the protester and any interested parties, unless otherwise agreed upon between the contracting officer and Commandant (G-LPL). This should be accomplished simultaneously with Commandant (G-LPL) submittal of the report to GAO, and the copy(ies) shall be sent by the fastest means possible, (overnight mail, express mailing by the General

33-1

Services Administration's mandatory contractor, etc.). Commandant (G-LPL) shall forward a copy of the transmittal letter to the contracting officer for inclusion in the report(s) forwarded, if appropriate.

(b) Protests before award. The determination referenced in TAM 1233.104(b) shall be signed by the contracting officer and forwarded in duplicate to the HCA. The HCA will coordinate the response with Commandant (G-LPL). If approved by the HCA, the HCA will forward the determination, through the Senior Procurement Executive, for concurrence of the Assistant Secretary for Administration (M-1).

(c) Protests after award. The notice referenced in TAM 1233.104(c) shall be submitted in duplicate to the HCA. The HCA shall coordinate the response with Commandant (G-LPL).

(g) Notice to GAO. The contracting officer shall submit the notice referenced in TAM 1233.104(g), regarding proposed noncompliance with GAO recommended action, to Commandant (G-LPL). The contracting officer shall also submit a copy of the notice to Commandant (G-CPM). If Commandant

(G-LPL) concurs, Commandant (G-LPL) will submit the notice, through the Senior Procurement Executive, to the Assistant Secretary for Administration (M-1) for review and approval.

CGAP SUBCHAPTER 1233.2 DISPUTES AND APPEALS

CGAP SUBCHAPTER 1233.203 Applicability.

The procedures of Subchapter 1233.2 (Disputes and Appeals) apply to all matters set forth in CGAP Subpart 1201.103 and to disputes and appeals involving leases for military housing.

CGAP SUBCHAPTER 1233.210 Contracting officer's authority.

CGAP SUBCHAPTER 1233.210-90 Settlement after appeal is filed.

The contracting officer shall obtain the concurrence of the Chief Trial Attorney, Commandant (G-LPL), prior to settlement, after an appeal is filed.

33-2

CGAP SUBCHAPTER 1233.212 Contracting officer's duties upon appeal.

CGAP SUBCHAPTER 1233.212-90 When filed with Board of Contract Appeals.

(a) Contracting officer's notification of appeal. Upon receipt of a notice of appeal, the contracting officer shall endorse on the original and copies, the date of mailing or, if otherwise filed, the date of receipt. When notices of appeal are received by mail, the contracting officer shall forward the envelope showing the postmark.

(1) If a postmark appears on the envelope, the following information shall be shown directly on the appeal.

Date of Postmark:

(s)

JOHN DOE
Contracting Officer

(2) If no postmark appears on the envelope, the following information shall be shown directly on the appeal.

Date of Receipt:

(s)

JOHN DOE
Contracting Officer

The contracting officer shall immediately forward the original and one copy of the notice of appeal directly to Commandant (G-LPL) for further processing.

(b) Requirements of the appeal file.

(1) General. The appeal file documents called for by Board Rule 4 shall be clearly legible. Copies containing approvals, notations, or otherwise marked should not be used. Captions on photographs shall be descriptive and not argumentative. Photographs, videotapes, and audio tapes shall show the date taken or recorded and by whom.

(2) Form.

(i) The appeal file shall be assembled in three-ring loose-leaf binders, each containing no more documents than

33-3

the binder will hold without impeding its opening and closing. Each document in the file shall be separated by partition and individually numbered and tabbed using sequential numbering (i.e., several documents shall not be grouped within a single tabbed partition unless the document was originally an attachment to that document).

(ii) The first four tab numbers shall be (1) the Notice of Appeal, (2) the Contracting Officer's Final Decision, (3) the contractor's claim and (4) the contract. Other documents shall be arranged in chronological order, earliest documents first. Each tab shall contain only one document (with enclosures, if relevant). The tab containing the contract shall include all of the pages of the contract, including any locally generated sets of general and special provisions, standard forms, etc. The contract shall also include the full text of at least those FAR

clauses which are relevant to the dispute (even though the FAR provisions are normally incorporated by reference).

(iii) Tab numbers shall be neatly printed or typed on the tabs. If the appeal file is voluminous, it shall be divided into two or more volumes. If practicable, the individual volumes should not exceed approximately two inches in thickness. Tab numbers on multi-volume appeal files shall be continuous over all volumes, i.e., they shall not begin at "1" for each volume.

(iv) Drawings may be placed in a separate volume. Large drawings shall be inserted in such a manner as to make them easy to remove and refer to, e.g., by folding them and inserting them into envelopes which are, in turn, fastened into the appeal file so that the drawings can be removed from the envelopes without removing the envelopes from the appeal file.

(v) Full sets of drawings, full specifications, and other large items may be bound separately and identified as supplements to the appeal file. They shall be listed as such in the appeal file index. Please note that the DOT Board of Contract Appeals only requires the inclusion of pertinent specifications, modifications, plans, and drawings.

(vi) The appeal file index shall list each document along with a brief description of the document. In multi-volume appeal files, the index shall indicate the division among volumes. The entire index (for all volumes) shall be placed in each volume.

(3) Multiple Appeals. Each appeal shall be covered by a separate file. If multiple appeals under the same contract are in the hands of the contracting officer they shall not be combined in one file without the prior approval of the Chief Trial Attorney, Commandant (G-LPL). In the case of multiple

33-4

appeals under the same contract, the contract, pertinent plans, specifications, amendments and change orders may only be furnished for the first of the multiple appeals. In the case of multiple appeals, the contracting officer should contact the Chief Trial Attorney when the notice(s) of appeal is received.

(c) Distribution of the appeal file. Within twenty-five (25) calendar days after notice that an appeal has been docketed, the

contracting officer shall forward the items listed below to Commandant (G-LPL) for distribution.

(1) The original and two copies of the appeal file. (One copy of the appeal file shall be retained by the contracting officer).

(2) The copy of the letter of transmittal for the appellant. The contracting officer shall forward the appellant's copy of the transmittal letter including the appellant's copy of the appeal file to Commandant (G-LPL) for mailing to the appellant.

(d) Requirements and procedures of the Chief Trial Attorney.

(1) Comprehensive Report for Chief Trial Attorney (G-LPL). The comprehensive report described below shall not be transmitted to the Board of Contract Appeals or to the appellant. Prior to, or at the time of, forwarding the appeal file, contracting officers shall be responsible for furnishing to the Chief Trial Attorney a comprehensive report including the following:

(i) The names, titles, addresses and telephone numbers of all potential witnesses for the Government having information concerning the facts in dispute and a summary of their testimony.

(ii) If known, the names and titles of potential witnesses for the contractor.

(iii) Any pertinent information which would assist the Trial Attorney in understanding the case.

(iv) Settlement position parameters, with history summarizing the actions to settle to date.

(v) Notification of the suit, if applicable.

(2) Appeal Correspondence. After an appeal has been filed with the Board of Contract Appeals, only the Chief Trial Attorney, Commandant (G-LPL) or assigned trial attorney may initiate Coast Guard correspondence between the appellant and the Board of Contract Appeals about the appeal. The contracting officer is not authorized to communicate, orally or in writing,

with the appellant or Board of Contract Appeals without prior approval from the Chief Trial Attorney or assigned trial attorney. In accordance with the recommendations of the Civil Justice Reform Act, it is Commandant (G-LPL) policy that the trial attorney make offers of settlement "early and often."

(3) Maintenance of Records. Care must be exercised to prevent premature destruction of records that are involved in contract claims and disputes. Contract files shall not be retired before all claims and disputes have been resolved.

(4) Associated Costs. All costs associated with legal defense (e.g., travel, witness expense, and court reporting) are a cost of the project.

(5) Presentation of the case.

(i) The Chief Trial Attorney, Commandant (G-LPL), and/or any Trial Attorney designated by Commandant (G-LPL) shall present all Coast Guard cases to the Department of Transportation Board of Contract Appeals. The Chief Trial Attorney and the designated Trial Attorney are authorized to take appropriate action for the presentation of the Government's case including communicating directly by letter or otherwise with any person in or outside the Coast Guard to secure any witnesses, documents, or information considered necessary in representing the Government.

(ii) The Chief Trial Attorney or responsible trial attorney may require the contracting officer or others to furnish comments or supplementary material.

(6) Agreement After Appeal is Filed. The Chief Trial Attorney and the Trial Attorney have the authority to effect settlement with an appellant, subject to the concurrence of the contracting officer, at any stage of an appeal prior to issuance of a decision by the Board.

(7) Post Settlement Procedure. When the Government and an appellant have reached mutually acceptable terms, a written modification to the contract shall be prepared setting forth the specific terms of the agreement, the contract clause(s) upon which the settlement was made, the consideration, and a requirement for a release by the contractor of all claims arising from the matter disposed of by the settlement agreement. The appellant shall also be required to withdraw the appeal with prejudice by notice thereof directly to the Board. The details of the settlement and the basis therefor will be recorded in a negotiation memorandum to the contract file. If the contracting officer was not present when the

agreement was reached, the Trial Attorney shall provide the negotiation memorandum to the contracting officer for execution of a settlement agreement per the procedures in FAR 49.109.

(8) Decisions of the Board. Decisions of the

33-6

Department of Transportation Board of Contract Appeals will be transmitted by the Chief Trial Attorney to the appropriate contracting officer.

CGAP SUBCHAPTER 1233.212-91 When actions are filed in the
U. S. Claims Court.

When a contractor elects to file an action to the U. S. Claims Court, rather than to the Board of Contract Appeals, the U. S. Department of Justice will notify Chief Counsel, U. S. Coast Guard. Upon receipt of this notification, Commandant (G-LPL) will contact the appropriate contracting officer, and request that a litigation report be prepared per instructions that will be provided on a case-by-case basis.

CGAP SUBCHAPTER 1233.290 Monitoring potential contract
claims.

Contracting officers shall monitor all potential contract claims expected to exceed \$100,000. Potential claims of this nature must be immediately reported in writing, to Commandant (G-CFM) in order to ensure that adequate funds will, be available to cover the claim upon settlement. The notification must include all fund citations on the contract and a statement, if possible as to whether or not the claim would involve antecedent liability. Note: A contract claim is based on antecedent liability if the modification or adjustment is within the general scope of the original contract and is made pursuant to a provision, such as the Changes clause, in the original contract. If complete settlement is not accomplished and a final decision is issued, a copy shall be provided within 3 business days to Commandant (G-LPL) to ensure litigation support for any appeal can be appropriately coordinated.

33-7

CGAP CHAPTER 1234
MAJOR SYSTEM ACQUISITION

(RESERVED)

CGAP CHAPTER 1235 RESEARCH AND DEVELOPMENT CONTRACTING

CGAP SUBCHAPTER 1235.014 Government property and title.

(b) Contracting officers shall submit requests for deviations under FAR 35.014(b) via the chain of command through their COCO Level 2 to Commandant (G-CPM) for processing individual deviations to Commandant (G-CFP); or for processing class deviations to the Senior Procurement Executive (M-60).

35-1

CGAP CHAPTER 1236 CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

CGAP SUBCHAPTER 1236.2 SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION

CGAP SUBCHAPTER 1236.201 Evaluation of contractor performance.

(a)(4) The authority to establish procedures which ensure that fully qualified personnel prepare and review construction contractor performance reports is delegated to the COCO Level 2.

(c)(1) The Coast Guard procedures for distribution of contractor evaluation reports are in accordance with the FAR 36.201(c). Contracting activities shall ensure that procedures regarding accessing contractor evaluation reports under FOIAs comply with FAR 42.1503, TAM Subchapter 1242.1503 and CGAP subchapter 1242.1503.

CGAP SUBCHAPTER 1236.208 Concurrent performance of firm-fixed-price and other types of construction contracts.

Approval authority for cost-plus-fixed-fee, price-incentive, and other types of contracts with cost variation or cost adjustment features to be permitted concurrently at the same work site with firm-fixed-price,

lump sum, or unit price contracts is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1236.209 Construction contracts with
architect-engineer firms.

The authority to approve award of a contract for construction of a project to the firm (and its subsidiaries or affiliates) who designed the project is the HCA. The approval request should be submitted by the contracting officer through the COCO Level 1 or 2, and the activity chain of command, to Commandant (G-CPM) for processing to the HCA.

CGAP SUBCHAPTER 1236.213 Special Procedures of Sealed
Bidding in Construction Contracting.

CGAP SUBCHAPTER 1236.213-2 Presolicitation notices.

(a) The authority to waive the requirement for presolicitation notices on any construction requirement that may result in a contract with a value of \$100,000 or more is delegated to the COCO Level 2.

36-1

CH-1

CGAP SUBCHAPTER 1236.213-70 Report of proposed Federal construction.

(b) Contracting officers must submit the Interagency Report No. 1671-DOL-AN, found in TAM Chapter 53 in accordance with TAM Subchapter 1236.213-70 to Commandant (G-CPM) by 20 August of each fiscal year. RCN-4200-1O applies.

CGAP SUBCHAPTER 1236.6 ARCHITECT-ENGINEER SERVICES CGAP
SUBCHAPTER

1236.601 Policy.

CGAP SUBCHAPTER 1236.601-90 Combining miscellaneous projects
for architect-engineer services.

(a) Requirements for miscellaneous architect-engineer projects may be combined under a single contractual instrument. The contract shall be written as an Indefinite-Delivery Indefinite-Quantity Contract per the provisions of FAR Subparts 16.5 and 36.6, except that the following direction applies.

(1) Pricing considerations.

(i) Labor rates, overhead rates, and profit rates shall be negotiated on the basic contract for the base year including all option(s).

(ii) Orders shall be issued on a lump sum, fixed price basis per project.

(2) Limitations on Use.

(i) The contract shall state a guaranteed minimum per FAR 16.504 (a)(2). The contract shall have a guaranteed minimum contract amount and a contract maximum amount which shall be stated as a dollar amount. The guaranteed minimum shall be obligated at the time of contract award. If the Government is not fairly certain that requirements will exceed the stated minimum, an Indefinite-Delivery-Indefinite-Quantity contract shall not be issued, and any individual A-E service project shall be awarded as one individual contract.

(ii) No individual order shall exceed \$300,000.

(iii) The total contract amount shall not exceed \$1,500,000.

(3) Other requirements.

(i) The Commerce Business Daily synopsis shall enumerate any options and the guaranteed minimum amount and the contract maximum amount.

CH-1

36-2

(ii) A one-year option is authorized. The option year is limited to the same dollar threshold limitations as the first year, (e.g., \$300,000 per task order, \$1,500,000 total option year amount).

(iii) The scope of such contracts should be made as specific and nonduplicative as possible to reflect the requirements of specific installations or geographic location, rather than a broad category of architect-engineer services.

CGAP SUBCHAPTER 1236.602 Selection of firms for architect-engineer contracts.

CGAP SUBCHAPTER 1236.602-1 Selection criteria.

(b) The authority to approve use of design competition when selecting for architect-engineer contracts is the COCO Level 2.

CGAP SUBCHAPTER 1236.602-2 Evaluation boards.

The authority to establish an ad-hoc architect-engineer evaluation board for each acquisition of A/E services in accordance with TAM Subchapter 1236.602-2 is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1236.602-3 Evaluation board functions.

The authority to provide general direction to an evaluation board when selecting firms for architect-engineer contracts is delegated to the COCO Level 2 at Facilities Design and Construction Centers (FDCCs); Civil Engineering Units (CEUs); Coast Guard Academy; and the Engineering Logistics Center.

(d) The evaluation board shall prepare the selection report and submit to the COCO Level 2 for review and approval or disapproval.

CGAP SUBCHAPTER 1236.602-4 Selection Authority.

(a) The COCO Level 2, is the selection authority which shall approve or disapprove the written recommendations of each evaluation board.

CGAP SUBCHAPTER 1236.602-5 Short selection process for
contracts not to exceed the
simplified acquisition threshold.

Contracting offices with only COCO Level 1 authority are not authorized to procure architect-engineer services.

(b)(2) The evaluation board's report shall be reviewed and approved by the COCO Level 2. Approval shall be obtained prior

to negotiations with the architect-engineer firm.

CGAP SUBCHAPTER 1236.603 Collecting data on and appraising
firms qualifications.

COCOs Level 2 at Facilities Design and Construction Centers (FDCCs), Civil Engineering Units (CEUs), Coast Guard Academy, and Engineering Logistics Center (ELC) shall establish procedures to meet the requirements of FAR 36.603(a). COCOs Level 2 shall ensure that data received from firms wishing to be considered for Government awards is maintained in a data file.

CGAP SUBCHAPTER 1236.604 Performance evaluation.

(a)(5) The authority to establish procedures which ensure that fully qualified personnel prepare and review construction contractor performance reports is delegated to the COCO Level 2.

(c) The Coast Guard procedures for distribution of contractor evaluation reports are in accordance with the FAR 36.604(c). Contracting activities shall ensure that procedures regarding accessing contractor evaluation reports under FOIAs comply with FAR 42.1503, TAM Subchapter 1242.1503 and CGAP subchapter 1242. 1503.

CGAP SUBCHAPTER 1236.609-1 Design within funding limitations.

(c) The authority to determine that cost limitations are secondary to performance considerations and additional project funding can be expected, if necessary, and FAR clause 52.236-22, Design Within Funding Limitations, is not to be included in fixed price Architect-Engineer contracts is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1236.690 Option for quality assurance and inspection services.

(a) Contracting officers shall release all retainage of payments for completed design work after the completion and acceptance of architect-engineer services on the basic contract and prior to the possible exercise of any option for quality assurance and inspection services. This is consistent with paragraph (c), FAR 52.232-10, Payments under Fixed-Price Architect-Engineer Contracts.

(b) When there is a possibility that in-house Government resources will be insufficient to cover the quality assurance and inspection requirements of a construction contract, and specifications for that contract are to be written by an architect-engineer firm on a fixed-price contract, the contracting officer shall consider inclusion of the clause at CGAP 1236.691 in the design architect engineer contract. When an option is included, technical specifications for quality

assurance and inspection service shall be included as an "Appendix A" to the statement of work, entitled "Quality Assurance and Inspection Services." Contracting officers shall negotiate prices before award of the basic contract, with the negotiated price set out as a separate optional contract line item.

CGAP SUBCHAPTER 1236.691 Clause.

QUALITY ASSURANCE AND INSPECTION SERVICES

At any time prior to 10 months after satisfactory completion and acceptance of architect-engineer services in this contract, the Government may exercise its option for architect-engineer performance of quality assurance and inspection services set out as "Appendix A" to the statement of work. The architect-engineer shall proceed with such work and services within thirty (30) days after the option is exercised.

(end of clause)

CGAP CHAPTER 1237 SERVICE CONTRACTING

CGAP SUBCHAPTER 1237.1 SERVICE CONTRACTS - GENERAL

CGAP SUBCHAPTER 1237.103 Contracting officer responsibility.

(c) Contracting Officers shall document the file if it is determined that performance-based contracting methods will not be used for any new requirement (task order or contract) or follow-on contracts. Any documentation which results in a determination that PBSC elements will not be used, must be submitted via the COCO to Commandant (G-CPM-2) prior to the CBD synopsis, or in the case of task orders, prior to signature by the contracting officer. The elements of PBSC which must be addressed are located at FAR 37.601. The contracting officer may proceed unless otherwise notified by Commandant (G-CPM).

Contracting Officers may use the Performance-Based Service Contracting (PBSC) Solicitation/Contract/Task Order Review Checklist for reviewing solicitations/contracts/task orders actions. The Office of

Federal Procurement Policy Checklist is found at
http://www.arnet.gov/References/Policy_Letters/pbscckls.html

CGAP SUBCHAPTER 1237.104-90 Personal services contracts.

Personal services shall be obtained by the temporary or intermittent employment of individuals through the cognizant local personnel office rather than by contract. FAR 37.104 (b) prohibits the award of personal services contracts unless specifically authorized by statute to do so, see TAM Subparts and CGAP Subparts 1237.104-90 and 1237.104-91.

CGAP 1237.104-92 Exemption, prohibition, and limitation.

(a) When contracting for personal services for health care services with individuals who are former federal employees, the contracting officer shall comply with the Federal Workforce Restructuring Act.

(b) Contracting officers shall consult Chapter 11, Commandment Instruction M6000.1 (series), Medical Manual for the limitations and prohibitions regarding funding, personnel eligibility, and payments under contracts for personal services for health care.

37-1

CH-1

CGAP SUBCHAPTER 1237.112 Government use of private sector temporaries.

(d) The requirements office should contact Commandant (CGPC-cpm) for proper completion of the certification at Part II of the Checklist at TAM Subchapter 1237.112, Appendix A.

(f) The requiring office must submit the information at TAM Subchapter 1237.112(f)(1)-(5) to Commandant (CGPC-cpm) for proper processing and approval.

CGAP SUBCHAPTER 1237.2 ADVISORY AND ASSISTANCE SERVICES

CGAP SUBCHAPTER 1237.203-70 Policy.

(a) The authority of the head of the agency at TAM 1237.202-70, is delegated to COCO Level 1 and 2.

Radionavigations Systems.

Every major new radiocommunications or radionavigation system must be certified for availability of frequency spectrum before any funds can be obligated for each phase of system procurement: planning, development, pre0production, and production. OMB Circular No. A-11 specifies in Section 12.4; "Estimates for the development or procurement of major communications-electronics systems (including all systems employing satellite [space] techniques) will be submitted only after certification by the National Telecommunications and Information Administration (NTIA), Department of Commerce, that the radio frequency required for such systems is available." Certification is obtained from NTIA through Commandant (G-SCT). System project managers shall coordinate system procurements as early a stage as possible with Commandant (G-SCT) to meet this requirement.

Every major new radiocommunications or radionavigation system must comply with the Spectrum Standards set forth in Chapter 5 of the Department of Commerce NTIA Manual of Regulations and Procedures for Federal Radio Frequency Management. Instructions concerning the availability of this manual may be obtained from Commandant (G-SCT).

CGAP SUBCHAPTER 1239.001-90 Policy.

(a) The Clinger-Cohen Act (Public Law 104-106) of 1996, also known as The Information Technology Reform Act (ITMRA) of 1996 (Division E of Public Law 104-106), replaced the Brooks Act requirements for information resource management. The Federal Information Resources Management Regulation (FIRMR) is no longer in effect. When procuring Information Technology (IT), (to include computer-related hardware, software, support services and telecommunications) contracting officers should rely on information given in the ITMRA, the FAR, and DOT H 1350.2 Departmental Information Resources Management Manual (available at <http://ostcio.dot.gov>). Also, rely on requirements found in Office of Management and Budget (OMB) Circulars A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs; A-109, Acquisition of Major Systems; A-130, Management of Federal Information Resources; and Commandant Instructions listed below:

- (i) COMDTINST 5231.2 Planning Approval for
Automated Information
Systems (AIS)
- (ii) COMDTINST 5230.55 Acquiring

Microcomputer Resources

(b) In addition, certain former FIRMR provision relating to GSA's continuing authorities have been retained and relocated in the FAR and the Federal Property Management Regulation (FPMR). Appendix A is a listing of retained FIRMR provisions and their new locations in FAR and FPMR

(c) The term Information Technology (IT) replaces the term Federal Information Processing (FIP). Further information on the definition of IT is found at FAR 2.101.

(d) Regardless of the deletion of the Brooks Act and the FIRMR, all acquisitions of IT expected to exceed \$100,000 may not be procured without an approved AIS Proposal from G-SI. AIS Proposal approvals are in the form of a memorandum or letter that specifically states what may be procured. Local IRM personnel should be contacted first when acquiring specific IT resources.

39-2

APPENDIX A TO CGAP 1239

CONSOLIDATED LIST OF NEW LOCATION FOR FIRMR PROVISIONS

FIRMR Provision	New Location
Part 201-9 - Creation, Maintenance, and Use of Records	FPMR Part 101-111 - Creation, Maintenance, and Use of Records
Section 201-17.001 (i), (j), (k), (n) Predominant Considerations	FAR Section 39.101 - Policy
Section 201-20.306 - Delegation of GSA's Multiyear Contracting Authority for Telecommunications Resources	FPMR Subpart 101-35.6 Delegation of GSA's Multiyear Contracting Authority for Telecommunications Resources
Subpart 201-21.6 - Use of Government Telephone Systems	FPMR Subpart 101-35.1 - Use of Government Telephone Systems
Section 201-21.600	Section 101-35.100

Section 201-21.601
Section 201-21.602

Section 101-35.201
Section 101-35.202

Part 201-23 - Disposition

FPMR Subpart 101-43.6 Disposition
of IT Excess Personal Property

Section 201-24.101 - The
Mandatory FTS 2000 Network
Network

FPMR Subpart 101-35.3 The
Mandatory FTS Long Distance

Section 201-24.101 - Consolidated
Local Telecommunications Service
Telecommunications Service

FPMR Subpart 101-35.4
Consolidated Local

Section 201-24.106 - National
Security and Emergency
Preparedness (NSEP)

FPMR Subpart 101-35.5 National
Security and Emergency
Preparedness (NSEP)

Section 201-39.804 - Financial
Management
Systems Software (FMSS)
Mandatory Multiple Award
Schedule (MAS)
Contracts Program

FAR Subpart 8.9 Financial
Management
Systems Software (FMSS)
Mandatory Multiple Award
Schedule (MAS)
Contracts Program

Section 201-39.1001-2 - Privacy
Specifications

FAR Section 39.105 - Privacy

39-3

Section 201-39.1001-3 -
Contract Clause

FAR Section 39.106 - Contract
Clause

Section 201-39.1701-4 -
Contracts

FAR Section 17.204(e) -
Contracts

Section 201-39.5202.5 -
Privacy or Security Safeguards

FAR Section 52.239-1 Privacy or
Security Safeguard

39-4

(RESERVED)

CGAP CHAPTER 1241 ACQUISITION OF UTILITY SERVICES

CGAP SUBCHAPTER 1241.5 SOLICITATION PROVISION AND CONTRACT CLAUSES

CGAP SUBCHAPTER 1241.501 Solicitation provision and contract Clauses.

(a) Contracting officers may use variations of the prescribed provision and clauses under (FAR) 48 CFR 41.5 when necessary for a particular acquisition of utilities. Legal counsel, pursuant to CCAP Subchapter 1201.690(d)(3), shall review variations of prescribed provisions and clauses for legal sufficiency.

CGAP SUBCHAPTER 1241.71 Energy savings performance contracts.

CGAP SUBCHAPTER 1241.7100 Policy.

Proposed actions under this section should be coordinated with Commandant (G-CPM)

41-1

CH-1

CGAP CHAPTER 1242 CONTRACT ADMINISTRATION

CGAP SUBCHAPTER 1242.1 CONTRACT AUDIT SERVICES

CGAP SUBCHAPTER 1242.101 Contract Audit Responsibility.

(b) The Department of Transportation (DOT) Office of the Secretary of Transportation (OST) and the Defense Contract Audit Agency (DCAA) cross-serving agreement for contract administration or audit services effective 1 October 1996 was transmitted by Commandant (G-CPM) Distribution letter 4200/GEN of 25 April 1997. An electronic copy of the DOT and DCAA Memorandum of Understanding (MOU) and its updates, including

any revised hourly billing rates, can be obtained at the DOT Internet site: <http://www.dot.gov/ost/m60/mous/mousheet.htm>. Each Operating Administration (OA) is responsible for funding its own contract audits. The MOU as amended in February 1997, designates the Coast Guard Finance Center as the sole billing point for the Coast Guard. Specific Coast Guard procedures which shall be followed are:

(1) When the contracting officer ascertains that an audit is needed, funds shall be obtained from the requisitioning office on a Purchase Request (PR). DCAA can assist you in determining an estimate of the funding required for the services you propose. The hourly billing rate \$69.19 per hour (as of Amendment 0002). On the average, a typical audit takes 1-2 weeks to complete, although it can take longer depending on circumstances.

(2) The contracting officer shall issue a funded Interagency Agreement order (IAO) citing all necessary appropriation data in a format similar to the sample IAO found in Annex IV of the MOU. Be sure to transmit the obligation to the Finance Center as a document type 28. The original and three copies of this AIO shall be sent to:

Commandant (G-ACS-3)
U.S. Coast Guard Headquarters
2100 Second Street, S.W.
Washington, DC 20593-0001

and one copy to:

Interagency Agreement
Coast Guard Finance Center
P. O. Box 4116
Chesapeake, VA 23337-4116

42-1

CH-1

(3) Transmittal of the IAO to the Commandant (G-ACS-3) shall contain the following information:

- (i) Cognizant DCAA office;
- (ii) Type of audit service requested (i.e., proposed review, rate Review, closeout);
- (iii) Offeror/contractor name and address;

- (iv) Offeror/contractor point of contact;
 - (v) Type of contractual action to be audited;
 - (vi) Dollar amount of action to be audited;
 - (vii) Solicitation/contract number;
 - (viii) Requested audit completion date;
 - (ix) Whether information to be audited is included with the package (e.g., offeror's proposal included);
 - (x) Whether a technical evaluation will be provided to DCAA;
- And
- (xi) Special instructions or concerns.

(4) DCAA will accept or reject the IAO within 15 days of receipt. In cases of rejection, the contracting officer will be notified by Commandant (G-ACS-3) as soon as possible.

(5) Each month, DCAA will bill the Finance Center for all effort expended the previous month on Coast Guard audits. The Finance Center will then charge each IAO account in accordance with the billing information. The contracting officer will not be required to approve payment before the Finance Center disburses the funds.

(6) Should it become necessary to increase the obligation of funds against the IAO, the contracting officer shall contact Commandant (G-ACS-3) for advice before issuing a modification. Distribution of all modifications to the IAO shall be in accordance with procedures in this subchapter.

CH-1

42-2

CGAP SUBCHAPTER 1242.2 CONTRACT ADMINISTRATION SERVICES

CGAP SUBCHAPTER 1242.202 Assignment of contract administration.

(c)(2) The authority of the HCA under FAR 42.202(c)(2) is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1242.3 CONTRACT ADMINISTRATION OFFICE FUNCTIONS

CGAP SUBCHAPTER 1242.302-90 Contract Administration Functions.

When an Administrative Contracting Officer's (ACO) function have been delegated by the Procurement Contracting Officer and a contract has been assigned for administration, the PCO shall delegate specific contract administration functions in writing to the ACO. If any functions are to be retained by the PCO they shall also be stated in writing. Copies of any delegations shall be provided to the contractor for information purposes.

CGAP SUBCHAPTER 1242.7 INDIRECT COST RATES

CGAP SUBCHAPTER 1242.703-2 Certification of Indirect Costs

The authority of the agency head to waive the requirement for certified final indirect costs is delegated to the COCO level 2.

CGAP SUBCHAPTER 1242.8 DISALLOWANCE OF COSTS

CGAP SUBCHAPTER 1242.803 Disallowing costs after incurrence.

(b)(3)(ii) Contracting officers shall notify Commandant (G-CPM) promptly whenever a contractor files a claim for unreimbursed costs under the Disputes clause of the contract. Contracting officers shall seek the advice of legal counsel before rendering a decision under the Disputes clause and shall submit the decision to Commandant (G-CPM) for review prior to transmittal to the contractor.

CGAP SUBCHAPTER 1242.14 TRAFFIC AND TRANSPORTATION MANAGEMENT

CGAP SUBCHAPTER 1242.1401 General.

(b) The Headquarters office which can provide assistance concerning the tasks delineated under FAR 42.1401 is Commandant (G-SLP).

CGAP SUBCHAPTER 1242.15 CONTRACTOR PERFORMANCE INFORMATION

CGAP SUBCHAPTER 1242.1502 Policy.

Coast Guard contracting offices with construction and architect-engineer contracts should follow the procedures at TAM and CGAP Subchapter 1242.1503, except for the use of the Appendix B format for evaluation. Evaluation of construction contractors and architect-engineer service contractors are evaluated in accordance with FAR 36. The other sample letters at Appendix B may be used as appropriate for construction or architect-engineer services. Interim evaluations shall be performed on contracts exceeding one year in duration.

CGAP SUBCHAPTER 1242.1503 Procedures.

(a) The procedures in the TAM subsection 1242.1503 shall apply to the Coast Guard unless otherwise authorized or addressed in this subchapter. For the Coast Guard, the COCO Level 2 or his designee shall determine who will evaluate contractor's performance. Each COCO Level 2 shall ensure uniformity of evaluation criteria within their contracting activity to comply with TAM 1242.1503(a). For the Coast Guard, Appendix B or a like or similar format may be used to evaluate the contractor's performance. Deviations from the format in Appendix B shall be coordinated with Commandant (G-CPM). The areas of performance to be selected for evaluation should be tailored to the type of supplies or services normally acquired by the contracting office and the type of contract.

(c) FAR 42.15 provides prohibitions on the release of the performance evaluations or information. However, requests for information under the Freedom of Information Act (FOIA) shall be processed in accordance with DOT and procedures established by the Coast Guard.

(d) Contracting offices may maintain either an automated system or a manual system, subject to the following conditions: Any development or agreement to use or purchase an automated contractor performance evaluation system from a source outside the Coast Guard shall be coordinated with Commandant (G-CPM) during the planning stage and is subject to approval by the HCA. All systems must have controls to ensure that only authorized personnel have access to the data.

CGAP SUBCHAPTER 1242.7001 Scope of subchapter.

The subchapter provides policy and procedures concerning the selection and training, and certification of a COTR.

CGAP SUBCHAPTER 1242.7002 Selection and training.

The Coast Guard's policies for COTR selection and training, which supplements the DOT COTR Training Standards policy, is provided as Appendix A to this subchapter.

CGAP SUBCHAPTER 1242.7003 Certification.

The Coast Guard's policies for COTR certification, which supplements the DOT COTR Training Standards policy, is provided as Attachment A to this subchapter.

42-5 CH-1 APPENDIX A TO CHAPTER 1242

I. Introduction

The purposes of this policy are: 1) to establish Operating Administration policies and procedures for appointing COTRs in the U.S. Coast Guard, in accordance with TAM 1242.70 (<http://www.dot.gov/ost/m60/earl/chap1242.htm#1242.70>); and 2) to establish Operating Administration policies and procedures for obtaining mandatory Contracting Officer's Technical Representative (COTRs) training as required by the Clinger-Cohen Act, Office of Federal Procurement Policy Letter 97-01, and the departmental policy entitled DOT COTR Training Standards (<http://www.dot.gov/ost/m60/workforce/transtand.htm>).

II. Definition

Contracting Officer's may appoint technical representatives and delegate certain responsibilities to assist in the performance of contract administration duties. A Contracting Officer's Technical Representative (COTR) is any individual so designated by the Contracting Officer that performs any one or all of the following functions: inspection, testing, acceptance of contract line items, surveillance of contractor performance, controlling government furnished property, reviewing and recommending approval/disapproval of invoices, vouchers, etc.

III. Applicability

This policy applies to all employees appointed as COTRs as of December 31, 1999, in accordance with TAM 1242.7004. Employees appointed prior to this date must take refresher COTR training in accordance with section V. Employees performing related acquisition functions are encouraged to take the training outlined in section V, or similar instruction.

IV. Appointment Procedures

Contracting Officers shall appoint COTRs in writing in accordance with procedures outlined in TAM 1242.7004.

V. Training Requirements

Initial Training - COTRs appointed after December 31, 1999 shall take a minimum of 24 hours of COTR training which covers the competencies enumerated in the DOT COTR Training Standards. Information on obtaining this training will be provided by the Contracting Officer in the COTR appointment letter outlined in TAM 1242.7004. During an initial implementation period, this training must be accomplished within 12 months of the effective date of this policy. At the conclusion of this

CH-1

42-6

implementation period, beginning January 1, 2001, newly appointed COTRs shall complete 24 hours of training prior to their appointment in order to serve as a COTR. Initial training requirements can be met through attendance of G-CPM sponsored classroom training or completion of a three-course package of online courses provided through the Federal Acquisition Institute's Online University. The three courses are: Contracting Orientation, Market Research for Acquisition Officers, and COR Mentor.

Refresher Training - All COTRs, regardless of date of appointment, must have a minimum of 8 hours of refresher training annually. The HCA, Director of Finance and Procurement, has determined that the Federal Acquisition Institute's Online University provided COR Mentor course meets the requirement for annual refresher training. Acceptable alternatives to the online COR Mentor course are workshops that address pertinent topics such as market research, performance based contracting, COTR duties, and other topical areas determined appropriate by the contracting officer. Alternate forms of refresher training must be approved by the contracting officer and be documented via workshop completion certificates.

VI. Monitoring System

Contracting Officers responsible for appointing COTRs shall ensure that the requisite training has been taken within the time frames set forth above. COTRs are responsible for providing documentation of completion of both initial and refresher training to the Contracting Officer. The contracting officer will document the contract file with proof (certificates) of required COTR training (initial and refresher).

VII. COCO Responsibility

COCOs shall be responsible for managing COTR appointments for all contracts within their purview, to include identification of most advantageous and cost-effective training mechanism (classroom or online training) per individual. Online training may be directly accessed through the Federal Acquisition Institute's Online University at no cost to the program or contracting office, located at <http://www.faionline.com>. Contracting Officer's may direct COTRs to enroll in online training via the COTR Appointment letter. To request COTR Classroom training, COCO's must approve Short-Term Resident Training Request, CG-5223, and forward to the Office of Procurement Management (G-CPM-1). As the course manager for

42-7

CH-1

acquisition workforce training, the Office of Procurement Management will continue to manage COTR classroom training as Headquarters Class "C" training. When requesting COTR classroom training, COCOs must provide the below supporting remarks in Block 22 of CG-5223 to assist G-CPM in prioritizing scarce training quotas. Classroom training will be prioritized considering complexity, dollar value of contract and access to internet. Address each of the following items:

(1) the contract commodity/service, the approximate dollar value of the contract(s) to which the COTR will be appointed;

(2) the type of contract anticipated;

(3) the contract period of performance;

(4) why classroom training is necessary in lieu of online training: (a) first time appointments, having no prior COTR experience, without access to internet-based training (cutters or units not on SWIII); (b) new or existing appointments, having prior COTR experience, without access to internet-based training; (c) first time or new appointments with

access to internet but other need for classroom training;

(5) additional information deemed necessary.

VIII. Exceptions

GS-9 or military equivalent that have served as a contract specialist, contracting officer, or procurement analyst within 5 years previous to their appointment date may be exempted from the initial training requirements. This is a Contracting Officer decision.

Procurements valued under the SAT, are exempt from this policy unless the Contracting officer determines that a trained COTR is necessary. For complex procurements valued under the SAT, the Contracting Officer may determine that a COTR appointment is necessary and require training as outlined above.

Any exceptions to COTR training requirements outlined above will be granted by the Head of the Contracting Activity on a case-by- case basis.

CH-1

42-8

CGAP CHAPTER 1243 CONTRACT MODIFICATIONS

CGAP SUBCHAPTER 1243.70 Undefined contract actions.

CGAP SUBCHAPTER 1243.7000 Scope of subchapter.

CGAP SUBCHAPTER 1243.7003 Administration of UCAs.

Contracting officers shall establish a definitization schedule when the UCA is issued. The schedule shall provide projected dates for the receipt of proposals, negotiations, and definitization. Once these dates are established, every effort shall be made to complete the milestones within the original schedule. The contracting officer shall document the contract file, when any date in the schedule is not met, to state the circumstances for the delay.

CGAP SUBCHAPTER 1243.7004 UCA monitoring system and report.

(a) The duties and functions delegated to the COCO under this section refer to the COCO Level 2.

(b) The COCO Level 2 shall establish a UCA monitoring system which

meets the requirements of TAM 1243.7004(b)

43-1

CGAP CHAPTER 1244 SUBCONTRACTING POLICIES AND PROCEDURES

CGAP SUBCHAPTER 1244.3 CONTRACTORS' PURCHASING SYSTEMS REVIEWS

CGAP SUBCHAPTER 1244.302 Requirements.

(a) The authority of the agency head under FAR 44.302(a) is delegated to the COCO Level 2.

44-1

CGAP CHAPTER 1245 GOVERNMENT PROPERTY

CGAP SUBCHAPTER 1245.1 GENERAL

CGAP SUBCHAPTER 1245.101-90 Definitions.

"Government-furnished property," as used in this CGAP and corresponding FAR Part, is not considered to be in the possession of the contractor until the contractor has signed a Government transfer document, (e.g., DD Form 1149, Requisition and Invoice/Shipping Document) accepting responsibility for the property.

CGAP SUBCHAPTER 1245.3 PROVIDING GOVERNMENT PROPERTY TO CONTRACTORS

CGAP SUBCHAPTER 1245.309 Providing Government production and research property under special restrictions.

(a)(3) The agency head delegation under FAR 45.309(a)(3) is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1245.5 MANAGEMENT OF GOVERNMENT PROPERTY IN THE POSSESSION OF CONTRACTORS

CGAP SUBCHAPTER 1245.505 Records and reports of Government property.

Records created by a contractor while working for the Coast Guard belong to the federal government and must be maintained per COMDTINST M5212.12, the Paperwork Management Manual.

CGAP SUBCHAPTER 1245.505-1470 Reports of Government property.

The contracting officer shall submit the report to Commandant (G-CPM). The report shall be mailed in time to arrive no later than October 10 of each year. Negative reports are required. Control symbol RCN-4200-II, Contractor Report of Government Property, applies.

CGAP SUBCHAPTER 1245.505-90 Reports of Government property.

Contracting officers shall include annual Government property reports as a separate contract line item in all solicitations and contracts that require the furnishing of Government property to contractors.

45-1

CGAP SUBCHAPTER 1245.6 REPORTING, REDISTRIBUTION, AND DISPOSAL OF CONTRACTOR INVENTORY

CGAP SUBCHAPTER 1245.608 Screening of contractor inventory.

CGAP SUBCHAPTER 1245.608-6 Waiver of screening requirements.

The authority to permit exceptions from requirements for screening of contractor inventory of Government property is delegated to the contracting officer. The contracting officer shall coordinate any determination of such exceptions with Commandant (G-CFM).

CGAP SUBCHAPTER 1245.610 Sale of surplus contractor inventory.

CGAP SUBCHAPTER 1245.610-2 Exemptions from sale by GSA.

(a) The sale of Government-owned personal property under a contract by anyone other than the General Services Administration (GSA) is prohibited unless, an exemption is granted by the Administrator of the

GSA. The Property Management Manual, COMDTINST M4500.5 series, provides additional guidance on the sale and disposal of Government- owned personal property. The authority to seek exemptions from the Administrator, GSA, for sales of surplus contractor inventory is delegated to Commandant (G-CFM).

45-2

CGAP CHAPTER 1246 QUALITY ASSURANCE

CGAP SUBCHAPTER 1246.6 MATERIAL INSPECTION AND RECEIVING REPORTS

CGAP SUBCHAPTER 1246.601 General.

DD Form 250 (Series), Material Inspection and Receiving Report (MIRR), is authorized for Coast Guard use to document contract quality assurance, acceptance of supplies and services, and shipments. MIRRs shall not be used for:

- (a) Shipments by subcontractors where direct shipment is not made to the Government; or
- (b) Shipment of contractor inventory.

CGAP SUBCHAPTER 1246.7 WARRANTIES

CGAP SUBCHAPTER 1246.702 General.

(c) Each contracting activity shall establish local procedures to trace and enforce contract warranty provisions. The procedures must be capable of providing a written summary which satisfies the requirements of TAM Subchapter 1246.702(c) within 10 calendar days from date of request. As a minimum, the summary shall include (in the order listed) the (1) contract number, (2) contractor's name, (3) description of warranted item, (4) warranty cost (from the contract), (5) costs associated with warranty enforcement, (transportation, travel, etc.) and (6) summary of warranty enforcement experience (to include, but not limited to, disposition of warranted items, other considerations obtained, and dates warranty action initiated and completed).

CGAP SUBCHAPTER 1246.704 Authority for use of warranties.

The COCO Levels 1 or 2 shall approve the use of a warranty clause in acquisitions where warranty exceeding the standard industry practices is required.

CGAP SUBCHAPTER 1246.710 Contract Clauses.

The use of FAR clause 52.246-17; 52.246-18; 52.246-19; 52.246-20 or 52.246-21 shall be approved by the COCO Level 1 or 2

46-1

CH-1

CGAP CHAPTER 1247 TRANSPORTATION

CGAP SUBCHAPTER 1247.5 OCEAN TRANSPORTATION BY U.S. -FLAG VESSELS

CGAP SUBCHAPTER 1247.590 Ocean Transportation by U.S.-Flag Commercial Vessels.

(a) Pursuant to FAR 47.506(d) and 46 CFR Part 381, agencies are to submit reports of ocean cargo shipments to the Maritime Administration (MARAD). As indicated in 46 CFR Part 381, the contractor may submit copies of the bills-of-lading directly to MARAD. This will satisfy Coast Guard requirements.

CGAP SUBCHAPTER 1247.90 Transportation.

(a) Definition. "Penalty mail" as used in this subchapter is that which is mailed using a Government imprint stating that postage and fees are paid by an agency of the U.S. Government and that there is a penalty for private use.

(b) Policy. Program managers are to ensure that mailings done by contractors are made at the automation rate that results in the lowest cost to the Coast Guard.

(c) Procedures. When a contractor makes penalty (indicia) mailings for the U.S. Coast Guard, the contracting officer shall either provide a copy of COMDTINST 5110.1, Coast Guard Postal Manual, or furnish the appropriate information from the instruction to the contractor. The contracting officer shall provide the contractor with the U.S. Coast Guard Permit Number and assist the contractor in submitting the required postal forms. The contracting officer shall ensure that a copy of the required postal forms are forwarded to Commandant (G-SII-2).

CGAP CHAPTER 1248 VALUE ENGINEERING

CGAP SUBCHAPTER 1248.1 POLICIES AND PROCEDURES

CGAP SUBCHAPTER 1248.102 Policies.

(e) The HCA has the authority to extend the sharing base on Value Engineering Change Proposals to include affected end items on all contracts, or any portion of those contracts, and to approve the written determination that such an extension would be more equitable or would significantly increase contractor participation. The authority to extend sharing bases that affect Coast Guard-wide contracts is retained by the Commandant.

CGAP SUBCHAPTER 1248.104-2 Shared collateral savings.

(a) The authority to determine that the cost of calculating and tracking collateral savings on value engineering change proposals will exceed the benefits to be derived is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1248.2 CONTRACT CLAUSES

CGAP SUBCHAPTER 1248.201 Clauses for supply or service contracts.

(e) The authority to determine for a contract or a class of contracts that the cost of computing and tracking collateral savings on value engineering change proposals will exceed the benefits to be derived is delegated to the COCO Level 2.

CGAP SUBCHAPTER 1248.202 Clause for construction contracts.

The authority to determine that the cost of computing and tracking collateral savings on value engineering change proposals for a contract will exceed the benefits to be derived is delegated to the COCO Level 2.

CGAP CHAPTER 1249 TERMINATION OF CONTRACTS

CGAP SUBCHAPTER 1249.1 GENERAL PRINCIPLES

CGAP SUBCHAPTER 1249.106 Fraud or other criminal conduct.

In cases of suspected fraud or other criminal conduct in connection with the settlement of a terminated contract, the contracting officer shall take action per the procedures in COMDTINST 5520.5 (series), Investigative Assistance.

CGAP SUBCHAPTER 1249.4 TERMINATION FOR DEFAULT

CGAP SUBCHAPTER 1249.401 General.

A copy of notices of termination for default, with all pertinent information, shall be forwarded to Commandant (G-LPL) for review as to legal sufficiency. The contracting officer shall notify Commandant (G-LPL) by telephone upon transmission of these documents. Commandant (G-LPL) will provide verbal approval or disapproval within three (3) working days after receipt of the documents.

CGAP SUBCHAPTER 1249.5 CONTRACT TERMINATION CLAUSES

CGAP SUBCHAPTER 1249.501 General.

Request for authority to use special purpose clauses shall be submitted to Commandant (G-CPM). The request shall contain the following information: a copy of the clause, justification for the necessity of its use, and the concurrence of legal counsel regarding the legality of the proposed clauses and the inappropriateness of the standard FAR clauses.

CGAP SUBCHAPTER 1249.6 CONTRACT TERMINATION FORMS AND FORMATS

CGAP SUBCHAPTER 1249.607 Delinquency notices.

(a) Cure Notice. When it is appropriate to issue a cure notice, the format in FAR 49.607(a) is mandatory except that additional paragraphs may be added, if appropriate. If reprocurement is a possibility, the following paragraph shall be added to the cure notice:

Should the Government decide to pursue its right of termination for default, the Government may procure supplies or services similar to those so terminated, and you will be liable to the Government for any excess costs of the reprocurement.

(b) Show cause notice. The format in FAR 49.607(b) is mandatory for the Coast Guard.

CGAP SUBCHAPTER 1249.607-90 Notice to re-establish a delivery date.

(a) A notice to unilaterally re-establish a contract delivery date is normally only appropriate when a period of time (several weeks or more) has elapsed with no official action taken by the contracting office and when the contractor will not agree to a contract modification to change the delivery date.

(b) Contracting officers shall document in a memorandum to the file why the unilateral action is in the best interest of the Government and the basis for determining the re-established contract delivery date. After obtaining concurrence of legal counsel, a notice substantially as follows shall be used:

NOTICE TO RE-ESTABLISH A DELIVERY DATE

The contract delivery date under (insert contract number) has elapsed. To date, you have not satisfactorily completed the contract as required by its terms. This is to advise you that the Government is re-establishing the date for delivery of supplies (or services) to (insert a reasonable date). At that time, if you have not satisfactorily completed performance of the contract as required by its terms, the Government may pursue its right under the default clause in the contract.

(end of notice)

(c) The above notice shall be sent with proof of delivery requested.

CGAP CHAPTER 1250
EXTRAORDINARY CONTRACTUAL ACTIONS

(RESERVED)

CGAP CHAPTER 1251
USE OF GOVERNMENT SOURCES BY CONTRACTORS

(RESERVED)

CGAP CHAPTER 1252
SOLICITATION PROVISIONS AND CONTRACT CLAUSES

(RESERVED)

CGAP CHAPTER 1253 FORMS

CGAP SUBCHAPTER 1253.1 GENERAL

CGAP SUBCHAPTER 1253.101 Requirements for use of forms.

The requirements for use of the forms prescribed or referenced in this chapter are contained in CGAP Parts and/or Chapters 1201 through 1252, where the subject matter applicable to each form is addressed. The specific location of each requirement is identified in Subchapter 1253.2.

CGAP SUBCHAPTER 1253.101.90 Use of other agency forms.

Coast Guard contracting activities are authorized to use any of the forms prescribed within the Department of Defense (DOD) FAR Supplement. Forms prescribed by the Federal Acquisition Regulation (FAR) shall have first preference usage, forms prescribed by the Transportation Acquisition Regulation (TAR) shall have second preference usage, forms prescribed by the Transportation Acquisition Manual (TAM) shall have third preference, forms prescribed by the Coast Guard Acquisition Procedures (CGAP) shall have fourth preference usage, and forms prescribed by the DOD FAR Supplement shall have last preference usage, unless mandatory use is prescribed for these forms.

CGAP SUBCHAPTER 1253.103 Exceptions.

Alteration (changes rather than overprinted additions) of any Coast Guard form or other authorized form used for contracting-related purposes

is prohibited unless prior approval has been obtained from Commandant (G-CPM). Use for the same purpose of any form other than one prescribed by these procedures requires prior approval of Commandant (G-CPM). Requests for exceptions to standard or optional forms, as prescribed in FAR 53.103 shall be forwarded to Commandant (G-CPM) for appropriate action.

CGAP SUBCHAPTER 1253.104 Overprinting.

Coast Guard forms and other forms may be overprinted with names, addresses and other uniform entries that are consistent with the purpose of the form and that do not alter the form in any other way. Exception approval for overprinting is not needed.

CGAP SUBCHAPTER 1253.105 Computer generation.

53-1

Forms prescribed within the FAR System may be adopted for computer preparation by following the exception procedures in CGAP 1253.103.

CGAP SUBCHAPTER 1253.106 Special construction and printing.

Contracting activities may request exceptions to procurement-related forms for special format and printing by using the procedures at CGAP 1253.103.

CGAP SUBCHAPTER 1253.107 Obtaining forms.

Coast Guard and other agency forms shall be obtained through the Coast Guard's regular forms distribution channels.

CGAP SUBCHAPTER 1253.108 Recommendations concerning forms.

Contracting activities shall effect coordination with the FAR Secretariat as specified in FAR 53.108 through Commandant (G-CPM).

CGAP SUBCHAPTER 1253.2 PRESCRIPTION OF FORMS

CGAP SUBCHAPTER 1253.200 Scope of Subchapter.

This subchapter prescribes Coast Guard forms for use in agency acquisitions. The subchapter is arranged by subject matter, in the same order as, and keyed to, the parts and/or chapters of this regulation-in

which the form usage requirements are addressed. (See FAR 53.200 for an example.)

CGAP SUBCHAPTER 1253.204 Administrative matters.

CGAP SUBCHAPTER 1253.204-90 Coast Guard forms used in documenting contract award information and in documenting contract administration files.

(a) Coast Guard Form CG-4788, Contract File Content Checklist - Preaward Contract File, prescribed in CGAP Subchapter 1204.802, shall be used for organizing the preaward portion of the contract files. It may also be used for contract modifications.

CGAP SUBCHAPTER 1253.219 Small business programs.

(a) Coast Guard Form CG-5080, Small Business Review Form, I prescribed in CGAP Subchapters 1219.501 and 1226.9002 shall be

53-2

used to document and recommend small business set-asides, and potential subcontracting opportunities for HBCUs.

(b) Environmental Protection Agency (EPA) Form 6005-3 and Form 6005-3A shall be used for reporting by 15 November annually per CGAP 1219.891, the Superfund Minority Contractors Utilization Report. CGAP SUBCHAPTER 1253.232-70 Procurement requests.

Form DOT'F 4200.I.2CG, Procurement Request--Process Rapidly, is prescribed by CGAP Subchapter 1232.702-70 for Coast Guard use when providing funds to procure supplies and services.

CGAP SUBSUBCHAPTER 1253.3 ILLUSTRATION OF FORMS

CGAP SUBCHAPTER 1253.300 Scope of Subchapter.

This subchapter illustrates Coast Guard forms that are specified by these Coast Guard Acquisition Procedures. The forms are arranged numerically.

53-3

[IMAGE]

Contract File Content Checklist - Preaward Contract File

53-5

[IMAGE]

Checklist (Cont.)

53-5

[IMAGE]

Small Business Review

53-6

[IMAGE]

Superfund Minority Contractors Utilization ReportM

53-7

[IMAGE]

Instructions

53-8

[IMAGE]

Superfund Minority Contractors Utilization Report - Part 2

53-9

[IMAGE]

Instructions

53-10

CGAP ENCLOSURE 1 to COMDTINST M4200.19F

(RESERVED)

Enclosure (2) to COMDTINST M4200.19F

COAST GUARD CONTRACT PAYMENT APPROVAL

CONTRACTOR:

_____ CONTRACT NO:
DTCG _____

INVOICE/VOUCHER NO: _____ DO/TO
NO: _____

DATE PROPER INVOICE/VOUCHER RECEIVED:

FROM: _____, Contract Specialist/Contracting Officer

TO: _____, Finance Center, Accounts Payable

(a) [] Pay full amount of invoice/voucher \$ _____ or

(b) [] Pay \$_____ and retain \$_____

Reason for retainage _____

(a) [] Complete DAFIS numbers (must contain 16 characters each):

DAFIS NO: _____ \$ _____

DAFIS NO: _____ \$ _____

DAFIS NO: _____ \$ _____

OR

(b) [] The accounting data for this invoice/voucher is as follows:

DAFIS NO. (13 characters only) _____ AND

Accounting line: _____ \$ _____

Accounting line: _____ \$ _____

Accounting line: _____ \$ _____

The contract/order balance after this payment is \$ _____

TYPE PAYMENT: FINAL PARTIAL COST-REIMBURSEMENT
PROGRESS

CONTRACT FINANCING: ___Y ___N ASSIGNMENT OF CLAIMS? ___Y
___N

DISCOUNT FOR PROMPT PAYMENT: 10 DAYS 20 DAYS 30 DAYS
___DAYS

_____ % _____ % _____ % _____ %

PAYMENT TERMS: _____ DAYS

ACCEPTANCE DATE: _____ COTR INITIALS

(optional)

ADDITIONAL COMMENTS:

Signature: _____ Date: _____

Contract Specialist/Contracting Officer

For payment questions contact: _____, _____, _____
Name Telephone E-mail address

Enclosure (3) to COMDTINST M4200.19F

A GUIDE TO ACQUISITION OF COMMERCIAL ITEMS

BACKGROUND - SETTING THE STAGE . . .

Commercial Item contracting is a new buying system created from the Federal Acquisition Streamlining Act (FASA) signed by the President in October, 1994. Its implementation in the Federal Acquisition Regulation (FAR) was effective in October 1995 and became mandatory in December 1995.

This means if your acquisition involves commercial items as defined in the FAR Part 2, you must use the applicable procedures and policies outlined in FAR Parts 10, 11, and 12 to procure those items.

This enclosure is not a substitute for a comprehensive reading of FAR Parts 2, 10, 11, and 12, but is intended to highlight the important new practices, provide additional information/explanation in key areas, point out sections of the FAR with which you should be familiar, and assist you in completing the Standard Form (SF) 1449 Solicitation/Contract/Order For Commercial Items.

DEFINITIONS - NEW AND DIFFERENT . . .

Supplies

The new definitions of commercial item, component, commercial component, and non-developmental item found in FAR Part 2 should be thoroughly reviewed. The commercial item definition is now very broad. For instance, you will see that it no longer depends on an acceptable number of equipment sales as in the past. An item need not even be built yet as long as it (1) has evolved from something that already meets the test for a commercial item, (2) represents an advance in technology or performance, and (3) will be available in time to meet the Government's delivery needs. In many respects, the Definition of commercial item is more of a guiding principle which requires the procurement professional to make his/her own value judgements, e.g., the meaning of a "minor" modification to an item. The contracting officer is being given broad discretion to conduct the procurement of commercial items in a manner he/she determines to be consistent with customary commercial practice. Along with that increased authority, the contracting officer must completely document market research findings, determinations of customary commercial practices, evaluations, and pricing decisions.

Services for Support of a Commercial Item

It should also be emphasized that many services will now be considered commercial items. Note FAR Part 2.101(e) which discusses services which are customarily considered to be commercial (installation, maintenance, repair, training); this means services that are needed to support a commercial item are commercial items themselves if they meet the qualifiers in this section. While the vendors of the commercial supplies will often provide these support services, the FAR does not require that these same vendors do so. Therefore, the services could be acquired from any source whether or not the source furnished the supplies that are being supported. Like the commercial supplies they support, these services do

Enclosure (3) to COMDTINST M4200.19F

not have to be previously sold to the general public so long as they are offered for sale. The FAR does not require that there be a catalog or market price for these services. The pricing could be established either as prices for specific tasks or published hourly rates.

Other services

FAR Part 2.101(f) discusses other services independent of and/or unrelated to commercial item hardware and software, e.g., janitorial services, grounds maintenance, and guard services. Unlike the category above, these services are defined more restrictively. These services must be offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices. Note that these services, unlike services for support of a commercial item, do not include services sold based on hourly rates only.

Nondevelopmental items

Also of interest is the definition of a nondevelopmental item in FAR Part 2.101. The section describes this type item in terms of any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement. Note the three qualifiers (a), (b), or Cc), in this section. Also note in (h) under commercial item, that a nondevelopmental item can be a commercial item if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments. This is the one area of overlap between commercial items and nondevelopmental items.

TYPE OF CONTRACT - VERY LIMITED . . .

Only firm fixed price contracts or fixed price with economic price adjustment contracts shall be used for the acquisition of commercial items. Indefinite-delivery contracts may be used where the prices are established based on a firm fixed price or fixed price with economic price adjustment.

MARKET RESEARCH - EMPHASIS ON RESEARCH . . .

In order to establish a preference for commercial items in answer to a known requirement, the requirement must be stated in terms of functions to be performed, required performance parameters, or essential physical characteristics rather than specified "how-to" designs. FAR Part 10 prescribes policies and procedures for conducting market research; it is the first step in the Government procurement process. Market research is required in procurements over \$100,000 and should involve technical representatives as well as contracting personnel. Market research should be conducted as early as possible after a need is identified, ideally upon receipt and acceptance of the purchase request, but in any case before the Government technical team develops formal requirements documents. It should involve a great deal of cooperation and coordination between the contract specialist and the technical representatives to determine if

Enclosure (3) to COMDTINST M4200.19F

commercial or nondevelopmental items are available, or could be modified to become available to satisfy the Government's needs. This may mean aggressively pursuing modification of available commercial items or nondevelopmental items to meet the Government's need. FAR Part 10.002(b)(2) lists some techniques for conducting market research. It mentions contacting knowledgeable individuals, industry publications, Government bases, catalogs and other product literature. There are also vendor associations, trade journals, marketing organizations, and trade shows.

Remember that the market research effort should be commensurate with the magnitude of the procurement action. For small dollar value purchases using simplified acquisition procedures, the market research may consist of obtaining information about a product while conducting telephone inquiries with vendor sources. In all cases, be sure to document your results.

DESCRIBING AGENCY NEEDS - PERFORMANCE, PERFORMANCE . . .

Market acceptance

FAR Part 11 prescribes policies and procedures for describing agency needs. It establishes an order of precedence for requirements documents which emphasizes performance-oriented documents. In order to assure that an item has achieved market acceptance or has been satisfactorily supplied to another agency under current or recent contracts, the contracting professional may establish criteria in a solicitation that requires an offeror to demonstrate market acceptance.

Challenging the requirement

Once market research has identified the attributes of existing or evolving products, requirements analysis must identify the key characteristics of the yet-to-be-finalized Government requirement. Implicit in this process is the fact that the contracting officer may have to challenge unique requirements. Think about the following issues: Have we overstated what it takes to accomplish the mission? Have we added anything to the requirement that is above the Government's minimum need? It is important to keep the doors open to a commercial item solution as long as possible. The reward for selecting a commercial solution is to streamline significantly the procurement lead time which will lead to greater customer satisfaction.

At the same time it is important to remember that finalizing the requirement is a coordination effort involving contracting, planning, and technical personnel. Cooperation among all members of the team insures full understanding of what is required to fulfill the Government's minimum needs.

APPLICABILITY - WHEN TO USE?

FAR Part 12 policies and procedures do not apply to the acquisition of commercial items when -

Enclosure (3) to COMDTINST M4200.19F

- (1) At or below \$2500 (the micropurchase threshold);
- (2) Using the SF 44;
- (3) Using the imprest fund; or
- (4) Using the IMPAC card.

RELATIONSHIP TO OTHER FAR PARTS - WHICH TAKES PRECEDENCE?

The policies and procedures of Part 12 take precedence over any other section of the FAR for all commercial item buys in excess of \$2500. The procedures may be used in conjunction with FAR Part 13 Simplified

Acquisition Procedures; Part 14 Sealed Bidding; and Part 15 Contracting By Negotiation. The determination as to the most appropriate acquisition procedure is still the decision of the contracting officer.

CONTRACT FINANCING - NEW PRACTICES . . .

Special contract financing may be customary market practice for some commercial items. FAR Subpart 32.2 provides policies and procedures for commercial financing arrangements. When contemplating such arrangements, contracting officers should seek guidance from G-CPM-2.

TECHNICAL DATA - RELY ON COMMERCIAL DATA . . .

Remember the FAR now requires the contracting officer to presume that data delivered under a commercial item contract was developed exclusively at private expense (FAR 12.211). This means the contracting officer must normally rely on that data customarily provided to the public with a commercial item. If a contract for commercial items does require delivery of technical data, the contracting officer shall include the appropriate rights in technical data provisions and clauses in accordance with FAR Part 27 and any TAR, TAM or CGAP supplements. Contracting officers should seek legal counsel when contemplating use of such provisions and clauses.

SPECIFICATIONS AND EVALUATION FACTORS - KEEP IT SIMPLE . . .

Many commercial item solicitations will use a "best value" approach for award, although there may be cases where other methods like "lowest price" may be more appropriate. Price and past performance must be included in any set of evaluation factors. (See FAR 15.605(b)(1)(ii) for the full phase in schedule for past performance evaluations). Remember that this procedure is designed for non-complex commercial item requirements which should not need lengthy statements of work and other addenda to define the requirements.

Detailed design specifications should be extremely rare. These tend to be complex and time-consuming to produce, and contain considerable risk to the Government if the design is faulty. Performance specifications, on the other hand, are always preferred where possible, are usually simple, and are much less risky to the Government.

Therefore, a typical set of evaluation factors may be technical (capability of the item to meet the Government's needs), price, and past performance. There need not be subfactors included for technical. In fact, the technical evaluation may only look at product literature or

Enclosure (3) to COMDTINST M4200.19F

samples, technical features, and warranty provisions. However, when using product literature in an evaluation, be sure to distinguish between product descriptions and advertising. Advertisements (unsubstantiated opinions such as "works great!") must not be considered in evaluating offers.

QUALITY - WE STILL WANT IT . . .

Contracting officers shall rely on the contractor's existing quality systems as a substitute for Government inspection, testing, and acceptance unless customary market practices permit in-process inspection. This does not mean we have lowered our quality standards. The Government can still inspect and can still reject nonconforming items. But instead of formal inspection, the Government is going to rely on the integrity of our contractors to deliver acceptable products while retaining contractual protections where necessary.

PRICING OF COMMERCIAL ITEMS - TINA OR NOT TINA?

FAR Part 12.209 assumes prices for commercial items will either (1) not be subject to the Truth in Negotiations Act (TINA) because the contract price is below the dollar threshold for application of TINA; or (2) be based upon one of the exceptions to cost or pricing data requirements contained in FAR 15.804-1(a)(1). If the contracting officer determines cost or pricing data is appropriate, the appropriate clauses must be inserted in an addendum. Note: The Federal Acquisition Reform Act passed under the Defense Authorization Act for FY96 exempted commercial items from certified cost and pricing data, regardless of value. Revisions to FAR are due no later than January 1, 1997. Until then, the current FAR Part 12.209 governs.

WARRANTIES - COMMERCIAL, COMMERCIAL . . .

The Government's post-award rights include implied warranties of merchantability and fitness. Legal Counsel should be consulted concerning the effect of language purporting to limit such implied warranties. Contracting officers shall take advantage of commercial (express) warranties, to the maximum extent practicable. This means offerors should offer the Government the same terms offered to the public and these express warranties must meet the Government's needs.

DIFFERENT TERMS AND CONDITIONS - NOT FORBIDDEN . . .

The policies and procedures of FAR Part 12 allow the contracting officer to accept offers showing different terms and conditions (Ts & Cs). The solicitation should indicate which Ts & Cs the contracting officer considers firm and which may be negotiated. The contracting officer does not have to accept the offeror's terms. In a best value procurement, the contracting officer and the technical personnel will have to consider the differences among the offerors due to differing Ts & Cs. There is no doubt this will be a difficult area and one that is new to most negotiator's. Guidance should be obtained from legal counsel and Commandant (G-CPM).

Enclosure (3) to COMDTINST M4200.19F

CLAUSES AND PROVISIONS - MUCH LESS REQUIRED . . .

FAR Part 52 adds five new provisions/clauses and modifies several other to establish commercial item coverage. The five new provisions/clauses are:

*FAR 52.212-1 Instructions to Offerors-Commercial Items -a provision which contains a single consolidated list of certifications and representations and shall be included in all solicitations. The provision may be tailored to adapt to market conditions.

*FAR 52.212-2 Evaluation-Commercial Items - a provision which the contracting officer may include when the use of evaluation factors is appropriate. This provision highlights the greatest value approach and should be tailored to each acquisition. Note in paragraph (c) of the provision that a signed bi-lateral contract is not required. The provision allows the Government to form a binding contract by mailing or furnishing a notice of award to the contractor. When using this provision in a solicitation, it should be attached as an addendum.

*FAR 52.212-3 Offeror Representations and Certifications - Commercial Items - a provision which streamlines the representation and certification requirements into one provision. Attach this provision to all solicitations. It is generally not tailorable. For oral quotes, see SAP Handbook.

Enclosure (3) to COMDTINST M4200.19F

*FAR 52.212-4 Contract Terms and Conditions-Commercial Items - a clause which shall be used in all commercial item procurements. The clause

sets forth some typical generic terms and conditions, but if they do not fit the specific procurement, they may be tailored (on a bilateral basis) to adapt to a particular set of customary market practices or conditions. Nevertheless, the following statutory provisions of the clause cannot be tailored: (b) Assignment, (i) Payment, (q) Other compliances, (d) Disputes, (g) Invoice, (r) Compliance with laws unique to Government contracts. Note that the termination provisions (1) and (m) are quite different from the clauses in FAR Part 49, as they are patterned after industry practices.

*FAR 52.212-5 Contract Terms and Conditions to Implement Statutes or Executive Orders-Commercial Items - a clause which shall be attached to all solicitations and resulting orders/contracts. The contracting officer must check off the individual clauses in this consolidated list that will apply to the proposed contract or purchase order. The clause is not tailorable without FAR deviation.

Enclosure (3) to COMDTINST M4200.F

INAPPLICABLE LAWS - BE CAREFUL . . .

Laws inapplicable or partially applicable to contracts and subcontracts for commercial items are listed in FAR Subpart 12.5. Remember that "not applicable" does not necessarily mean the provisions of the statute do not apply. For example, while contractors are relieved of the requirement to submit certain certifications, they are still required to comply with the laws such as the Clean Air Act, the Federal Water Pollution Control Act, and the Contract Work Hours and Safety Standards Act. It is the written "certification" which has been deleted, NOT the requirement to comply with the statute.

STREAMLINED PROCEDURES - SAVING TIME . . .

FAR Subpart 12.6 contains two streamlined procedures. The first one describes a less formal evaluation procedure than that found in FAR Parts 14 and 15 and is discussed above under "Specifications and Evaluation Factors."

The second one combines the CBD synopsis and solicitation-into a single document. The procedure is designed to reduce the time required to solicit and award contracts for noncomplex items. It expands the information to be published in the CBD synopsis notice (12,000 textual characters or approximately 3^{1/2} single-spaced pages), so that the synopsis notice effectively serves as the solicitation. These solicitations are no longer required to remain open for 30 days, but must remain open for at least 15 days (FAR 12.603(c)(3)(ii)). Note: be sure to include the

requirement for Ombudsman Notice at CGAP Subchapter 1212.203-91.

ADDENDA - KEEP TO A MINIMUM

Some contract features which may require addenda to the solicitation are: use of indefinite-quantity contract, use of option, and use of recovered material. Others will be unique to the specific buy.

USING THE SF 1449 - WHAT WILL MY SOLICITATION LOOK LIKE?

The SF 1449 may serve both as a solicitation/contract/order document and as a receipt and acceptance document. Use of SF 1449 is mandatory when procuring commercial items. The uniform contract format does not apply to these procurements. Typically, solicitations and contracts for the acquisition of commercial items shall be assembled as follows:

- a. SF 1449
- b. Continuation of any blocks necessary
- c. Contract Clauses
 - FAR 52.212-4
 - Any addendum to FAR 52.212-4
 - FAR 52.212-5
- d. Any attachments (e.g. SOW, SPECS)
- e. Solicitation Provisions
 - FAR 52.212-1
 - Any addendum to FAR 52.212-1

7

CH-1

Enclosure (3) to COMDTINST M4200.F

FAR 52.212-2
FAR 52.212-3

GENERATING THE SF 1449 - HELP!!!

The following is a guide to completing the blocks of the SF 1449:

Block 1 - DAFIS document number (same as item 4, OF 347).

Block 2 - Contract number (DTCG) if applicable (same as item 2, OF 347).

Block 3 - self explanatory.

Block 4 - Order number (DTCG) if applicable
(same as item 3, OF 347).

Block 5 - If the SF 1449 is used for a solicitation, then the order number field is not filled.

Block 6 - date of issuance of the solicitation, if applicable.

Blocks 7,8,9 - self explanatory.

Block 10 - enter unrestricted (open to any vendor) or set-aside. If the order is between \$2,500 and \$100,000, then it is a small business set aside. See FAR Part 19 for more information on set-asides and standard industry classification (SIC) code and size standard. If a price evaluation adjustment for small disadvantaged business concerns is applicable, or if an incentive subcontracting clause is used, or if set-aside for emerging small business, see FAR 12.303(b).

Block 11 - FOB destination is the default unless block is checked. In this case, information must be in the schedule addendum.

Block 12 - same as block 16, of 347.

Block 13 -check if this is a DO rated order.

Blocks 14, 15 - self explanatory.

Block 16 - This should default to block 9 unless otherwise indicated.

Block 17a - self explanatory.

Block 17b - for use by the vendor.

Block 18 a & b - same as item 21, of 347, except for document type 24. In this case, check the "see addendum" box in item 18b.

Blocks 19-26 - self explanatory.

Block 27a - for a solicitation select (a). FAR 52.212-1 and FAR 52.212-4 are incorporated by reference. FAR 52.212-3 and FAR 52.212-5 shall be attached. Check box provided if additional clauses/provisions are attached.

Block 27b - for a purchase order select (b). FAR 52.212-4 is incorporated by reference. FAR 52.212-5 shall be attached. Check box provided if additional clauses/provisions are attached.

Block 28 - not often used under the simplified acquisition threshold.

Block 29 - used most often for awarding contracts.

Enclosure (3) to COMDTINST M4200.19F

Block 30 a through c - completed by the offeror usually only in formal contracts.

Block 31 a through c - contracting officer data.

Block 32 a through c - receiving data - may be completed by the Contracting Officer's technical representative (COTR).

Blocks 33-42 - leave these blank

Enclosure (4) to COMDTINST M4200.19F

PRE-PLANNING PURCHASE REQUEST CHECKLIST

PROGRAM

PROJECT OFFICER

1. Description of Program, Item or System
 - (a) Nomenclature.
 - (b) Ancillary Items (Technical Publications, Drawing, etc.).
 - (c) Quantity of Item Services to be Procured.

- (d) Known or Anticipated Future Requirement.
- 2. Program Funding
 - (a) Type of Funds (R&D, OE, AC&I).
 - (b) Estimated Cost by Fiscal Year based on Life Cycle Cost (LCC) estimates.
 - (c) Estimated Cost By Item or Task including logistics support items such as spare parts, support equipment, etc., and support tasks such as design influence, maintenance and training.
 - (d) Availability of Funds.
 - (e) Independent Government Estimate (estimate must be in as much detail as if the Government were to compete for the award).
- 3. Delivery Requirements
 - (a) Date(s) Item is Required/Service Period of Performance.
 - (b) Normal Production Lead Time.
 - (c) Key Event Considerations (Schedule, Overhaul, Deployment of Ship, Technical reviews, configuration audits, establishment of configuration baselines, first article testing, etc.).
 - (d) Special Time-Consuming Test Considerations.
- 4. Background and Procurement History
 - (a) Prior Procurements (identify contract numbers, contractors, unit cost, quantities and actual delivery dates).
 - (b) Problems Encountered On Previous Procurements And/Or With End Items After Acceptance And Actions Taken To Minimize Similar Problems In The Planned Procurement.
 - (c) Availability and adequacy of technical documentation (drawings; specification; and, operator and maintenance manuals) procured under prior contracts. For example Proprietary Rights.
 - (d) Other Related Procurements Planned Or In Process (including the procurement of Government furnished property)
- 5. Integrated Logistics Support
 - (a) Plans for Logistics Support over the Life Cycle of the Item/System. Planning documents should specifically address: maintenance planning; manpower and personnel; supply support; technical data; training and training

Enclosure (4) to COMDTINST M4200.19F

support; computer resources support; facilities, packaging, handling, storage and transportation (PHS&T); and design interface. Refer to COMDTINST 4105.2, Acquisition and Management

of Integrated Logistics Support (ILS) for Coast Guard Systems and Equipment, for definitions of the ten (10) ILS elements.

6. Test and Evaluation

- (a) Quality Assurance Requirements.
- (b) Commandant (G-AQA) Inspection (in the event inspection is required at contractor's facility, the assignment of a G-AQA Inspector may be required).
- (c) First Article Test Requirements. (a justification is required and this contract requirement cannot be used as a substitute for inadequate specifications or lack of definition in the inspection/acceptance area).

7. Government Furnished Material(GFM)/Property

- (a) Identify GFM (including data) to be Provided by the Government.
This includes facilities if applicable.
- (b) Specify The Estimated Value Of Items To Be Provided.
- (c) Location and Date GEM Will Be Available.
- (d) Anticipated Problems Relating To GFM.
- (e) Concurrent Procurement Of GEM Proposed.
- (f) Control/Accountability After Award.
- (g) Disposition Upon Completion Of Contract.

8. Specifications

- (a) Type
 - (1) Design.
 - (2) Performance.
 - (3) Brand Name (requires salient performance characteristics).
- (b) Adequacy Of Specifications.
 - (1) Specification Review Board Action.
 - (2) G-AQA Input/Review.
 - (3) Restrictions On Any Drawings/Data.
- (c) Consideration Given To Purchasing Reprocurement Data Package (replacement of the item and/or maintenance support)

Enclosure (5) to COMDTINST M4200.19F

[IMAGE]

Policy Letter 81-1

[IMAGE]

Policy Letter 81-1 (Cont.)

Enclosure (6) to COMDTINST M4200.19F

CHECK LIST FOR PREVENTING WASTEFUL YEAR-END SPENDING

A. Standards of Conduct

1. Have employees been advised of the expected standards of conduct as they apply to wasteful spending and the possible sanctions and penalties if conduct is improper or required procedures are not followed?
2. Have employees been apprised of their duty to report and the methods of reporting waste and fraud including hotline telephone numbers (attached) and the protections that are available to employees making waste and fraud reports?
3. Contracts or other documents must not be postdated under any circumstances.
4. Procurement actions should not be delegated or assigned to field or base stations, regional or other subordinate offices or other activities or agencies, to avoid proper review, clearance, approvals or other such internal controls required at the headquarters level.
5. Contracts to former Government employees must be closely reviewed and clearly justified. Conflict of Interest considerations must play a major role in this assessment and approval and such conflicts avoided under all circumstances.

B. Need Determination

1. Is the request part of a current approved budget plan?
2. Is the request for more property or services than is currently needed to meet approved and essential program objectives or can it be postponed or delayed to a more propitious time?
3. Is the request duplicative in whole or in part of some other ongoing Government program? Is it prudent and within the constraints of existing law and bona fide need rules.

4. Has a lease vs. purchase cost benefit review been completed, if appropriate?
5. Is the request for purchase of additional items or services not contained in the original procurement request or contractor proposal? Is this because original estimated funding needs were in excess of the funds actually required to meet the funding requirements? Is it fully justified? What events transpired to bring about the need for additional funding requirements?
6. Purchases or orders for supplies or services should not be approved unless they have been planned in advance, properly solicited in The Commerce Business Daily, or, are needed to meet an emergency and comply

Enclosure (6) to COMDTINST M4200.19F

with agency internal controls under OMB Circular A-123 and the Federal Managers' Financial Integrity Act PL 97-255.

7. Funds should not be obligated for requirements-type or task contracts in excess of anticipated needs based on projections from prior use and current operating levels.
8. The procurement of consulting and advisory services and modifications of current consulting and advisory services contracts must be reviewed for compliance with current controls under OMB Circulars A-120 and A-123.
9. Purchases by, or orders from, the General Services Administration, the Defense Logistics Agency, or other central procurement offices, or off Federal Supply Schedules should not be in excess of current use or inventory requirements. Use and inventory requirements must be validated. Orders should not be placed if delivery cannot be made in time to meet current need or inventory requirements. Unpriced orders or undefinitized contractual actions should not be resorted to except in emergency or unusual situations. If used, such orders shall be funded at the minimal level so as to protect the Government's interest in subsequent negotiations.
10. Procurement actions must be reviewed to ensure that they cover essential, minimum requirements and not superfluous or "gold-plated" supplies.
11. To avoid duplication or underutilization and to foster greater

economy and efficiency, users should ensure maximum utilization of available inventories and the proper use of all available resources including excess property before procuring new or additional supplies or quantities.

12. Items should not be replaced while they still are usable unless replacement is essential to meet program objectives, productivity would be increased, or substantial cost savings will result. Materials and equipment should be repaired and reused whenever practicable and when cost effective.

13. Renovation, moving or redecorating, should only be done when it is essential to program objectives, required because of lease arrangements or in an emergency to protect the health and safety of employees. In any case, it should be only the minimum necessary to meet program objectives.

C. Good Procurement Practice and Accountability

1. Is there time to ensure that normal procurement practices are followed? If not, the file should be documented as to why the procurement process was compressed to the point where good practices were not followed and to avoid repetition of this weakness in future fiscal years.

2. A cost or price analysis, and a determination that the Government is paying only fair and reasonable prices and will receive all appropriate discounts and credits, should be made for all contracts or modifications.

Enclosure (6) to COMDTINST M4200.19F

3. All noncompetitive proposals should be audited or audit information obtained, unless reasonableness of price can be established clearly by other accepted means.

4. Certification of current cost or pricing data should not be used as a substitute for preaward price negotiation.

5. Initiation of procurements in the fourth quarter for award in the fiscal year should generally be limited to small purchases or to emergency unscheduled requirements with appropriate solicitation in The Commerce Business Daily.

D. Method of Contractor Selection

1. Will a noncompetitive contract be necessary? Is it fully justified

and documented. Have plans been made to prevent subsequent noncompetitive contracts? Has the contracting activity adhered to the requirements of the Competition in Contracting Act (PL 98-369).

2. Are grants reviewed to ensure they are the proper vehicle in accordance with the Federal Grant and Cooperative Agreement Act (P.L. 95-244) and are not used to avoid procurement procedures? Does the use of a grant violate a legislative mandate or authorization?

3. "Unsolicited" proposals should be truly unsolicited and should not be accepted unless they demonstrate unique or innovative concepts not otherwise available or resembling a pending competitive proposal and are for a current essential program requirement. Award will only be made after strict compliance with regulations on unsolicited proposals, including appropriate documented rationale for the decision.

4. Procurements should not be divided just to come within small purchase procedures. In accordance with good procurement practices, requests should be consolidated if it would be more cost effective to do so, to take advantage of quantity pricing. However, this should not be construed to prohibit breakout of items for small or minority business.

5. Short response times or restrictive requirements must not be used as methods to avoid full and open competition or as means of "steering" contracts to pre-selected or favored offerors.

6. You are reminded that statutes and implementing regulations require that all proposed procurement actions of \$25,000 and above be synopsisized in The Commerce Business Daily at least 15 days prior to issuance of a solicitation.

E. Use of Existing Contracts

1. If the request is for the exercise of options or the funding of the later years of a multi-year contract, is the procurement still necessary and fully justified? Is the option for later years still reasonably priced based on historical costs for immediately preceding years?

Enclosure (6) to COMDTINST M4200.19F

2. If the requests are purchases off Federal Supply Schedules or orders against basic ordering agreements or requirements-type contracts, are they fully justified as to current need, pricing and the method of contracting? This applies particularly for high-waste vulnerable items.

3. If the request is to add funds to an ongoing contract with a Government Owned/Contractor Operated facility, a Federal Contract Research Center, or a Federally Funded Research and Development Center, is the requirement clearly defined? Is it fully justified? Are such contracts being used as a means to circumvent procurement requirements? Are subcontract awards being directed by the Federal agency?

4. Funds obligated to cover unpriced items, such as changes, spare parts and data, should not be in excess of current best estimates of need for those items. Additional obligations in excess of the original procurement request must be clearly justified.

5. Funds for letter contracts should not be obligated in excess of that allowed by regulations, nor should letter contracts be used solely as a vehicle to obligate funds that would otherwise lapse.

6. When contracts are modified or supplemental agreements issued to increase the level of effort or procure additional tasks, items or services, the additional requirements must be validated. The subcontracting of substantial parts of such modifications, change orders or tasks may indicate contracts are being used as vehicles to avoid competition.

7. Funds for contractor-operated supply stores or other logistic support-type contracts should not be obligated in excess of current requirements or used as a vehicle to make directed procurements nor should they otherwise be used to avoid agency internal management controls. Accepted techniques and mechanisms for control of inventories, such as usage checks and economic order quantities, should be employed.

ENCLOSURE 7 to COMDTINST M4200.19F

(RESERVED)

Enclosure (8) to COMDTINST M4200.19F

RECORD OF REVIEW FOR (insert proposed contract/modification number)

Contract Review Board (insert initiating office, official, or review board)

(Insert appropriate approving official from CGAP Subchapter 1204.7002(c))

1. ACTION

This section shall contain identification of the requirement for the Record of Review (CGAP Subchapter 1204.7002(c)); proposed contractor's name and address; and description of what we are buying.

2. RECOMMENDATION

It is recommended that the proposed award to (insert proposed contractor's name) in the amount of \$ (insert amount*) be approved. By signing this record of review, the Contracting Officer and Level above the Contracting Officer Approval official certify that compliance with acquisition laws, regulation, TAM or CGAP have been accomplished and that all review comments have been resolved.

(legal counsel)

(responsible program official)

(contracting officer)

Level above Contracting Officer
approval**

3. APPROVAL/DISAPPROVAL

The award to (insert proposed contractor's name) in the amount of \$(insert amount*) is:

***APPROVED: _____DISAPPROVED:

(Title of Approval Official)

DATE: _____

* The dollar amount total must be inclusive of base year and option(s) amounts.

** Level above Contracting Officer is the individual per TAM Subchapter 1204.7003 or per CGAP Subchapter 1204.7003(c).

*** The approval official per CGAP Subchapter 1204.7003(c) and the fill-in at FAR clause 52.204-1, Approval of Contract for the solicitation/contract should be consistent. If conditionally approved or disapproved, a memorandum will be attached describing mandatory changes required for approval.

Enclosure (9) to COMDTINST M4200.19F

ACQUISITION PLAN

Procurement Request Number:

Description of Supply/Service:

Year, Type and Amount of \$:

Client (Office Symbol):

Tech Rep Name & Phone #:

Contracting Office Branch:

Contract Specialist Name:

Solicitation Number:

Type of Solicitation:

Modification or Order Number:

Type of Set-aside:

Type of Contract:

Competition:

Other Than Full and Open

Competition Authority:

Delivery or Performance Period:

Govt Furnished Property:

Contractor Data and Data Rights:

Quality Assurance Requirements:

Security Considerations:

Environmental Considerations:

Contract Administration:

Special Contractor Qualifications:

Special Problems:

1

CH-1

Enclosure (9) to COMDTINST M4200.19F

Milestones:	PLANNED	REVISED	ACTUAL
Market Research: 03/01/99 (Example)	_____	_____	_____
Specification/SOW Approved:	_____	_____	_____
IGCE Approved:	_____	_____	_____
Procurement Forecast:	_____	_____	_____
PR Package Accepted:	_____	_____	_____
Set-aside Determination:	_____	_____	_____
CBD Synopsis Published:	_____	_____	_____
Solicitation Issued:	_____	_____	_____
Proposals Received:	_____	_____	_____
Proposal Evaluation:	_____	_____	_____
Technical Evaluation Report:	_____	_____	_____
Cost/Price Evaluation:	_____	_____	_____
Competitive Range Determination:	_____	_____	_____
Pre-negotiation Memo Approved:	_____	_____	_____
Discussions Complete:	_____	_____	_____
Final Proposal Revisions Received:	_____	_____	_____

Final Technical Evaluation Report: _____

Price Negotiation Memo Approved: _____

Contract Review & Approval: _____

Award: _____

Closeout: _____

2

CH-1

Enclosure (10) to COMDTINST M4200.19F

[IMAGE]

Aquisition Milestones

Enclosure (11) to COMDTINST M4200.19F

ENCLOSURE (11) TO COMDTINST 4200.19F

RESERVED

ch-1

Enclosure (12) to COMDTINST M4200.19F

MILITARY INTERDEPARTMENTAL PURCHASE REQUESTS (MIPRS)

1. PURPOSE. To establish guidance for processing MIPRS.
2. SCOPE. This guidance applies to all Coast Guard contracting activities that issue MIPRS.
3. BACKGROUND. A MIPR (DD Form 448) (Exhibit 2) is a document

that is used to place an order for supplies or nonpersonal services with a MILITARY (e.g. Air Force, Navy) servicing agency. This form may also be used to place an order for supplies or nonpersonal services with CIVILIAN servicing agency (e.g., the General Services Administration), if acceptable to that civilian agency. The authority to place orders with another Agency to obtain supplies and nonpersonal services is 31 U.S.C. 1535. The MILITARY or CIVILIAN servicing agency, hereinafter referred to as "the Agency" will normally provide these supplies or nonpersonal services by one of the following methods:

a. METHOD 1-By Government personnel or resources or from the Agency's stock.

b. METHOD 2-By a contract, contract modification within the scope of the Agency's contract, or a delivery order against the Agency's contract. These contractual documents often times may also include the requirements of other Government agencies;

c. METHOD 3-By including the Coast Guard's requirement in the Agency's proposed solicitation.

d. METHOD 4-By contracting exclusively for the Coast Guard (rarely occurs).

4. PROCEDURES.

a. PROCUREMENT METHOD.

(1) Prior to issuing a MIPR, the contracting officer shall contact the Agency to confirm whether or not the MIPR will be accepted, and to determine by which METHOD the supplies or nonpersonal services will be provided to the Coast Guard.

(2) The following procedures apply:

(a) METHOD 1 - The contracting officer shall obtain from the Agency, the cost, delivery schedule, number of copies of the MIPR required, and any other information pertinent to the proposed procurement. If the acquisition involves the use of a commercial or industrial activity operated by the agency, the contracting officer shall ensure compliance with FAR 7.3, Contractor versus Government Performance.

(b) METHOD 2 The contracting officer shall obtain from the Agency, the cost, delivery schedule, number of copies of the MIPR required, proposed final product, contractor's name, and contract number.

Enclosure (12) to COMDTINST M4200.19F

It is preferable to obtain this information before MIPR acceptance, but if this is not practicable, then as soon after MIPR acceptance as possible.

(c) METHOD 3 - The contracting officer shall obtain from the Agency, the method of procurement (e.g. sealed bidding, negotiated other than full and open competition or full and open competition), the estimated cost/price, number of copies of the MIPR required, delivery schedule.

(d) METHOD 4 - The contracting officer shall provide to the Agency, the desired method of procurement (e.g., sealed bidding, other than full and open competition, full and open competition, full and open competition after exclusion of sources), the estimated cost/price, delivery schedule, and confirm whether or not the Agency will procure the supplies or nonpersonal services.

(e) The contracting officer shall ensure that there are no fees or charges in excess of the actual cost (or estimated cost if the actual cost is not known) of entering into and administering the contract by the servicing agency.

b. DOCUMENTATION AND APPROVAL.

(1) If the Coast Guard dictates procurement by one of the exceptions under FAR Subpart 6.2, Full and Open Competition after Exclusion of sources or FAR 6.3, Other Than Full and Open Competition, the Coast Guard must furnish to the Agency, all of the information that will be needed to execute the justification and/or D&F that may be required under FAR Subpart 6.2 and 6.3.

(2) A Determination and Findings (D&F) to support issuance of the MIPR is required by FAR 17.503, and it shall be written in the format of TAN Chapter 1217, Appendix A. The findings required by FAR 17.503(b) shall be discussed with the Agency in all cases and included in the D&F.

c. FORMAT

(1) Exhibit 1 defines and provides instructions for completing appropriation entries on page 1 of the MIPR. Exhibit 2 provides a sample of a Category I MIPR or Category II MIPR. Exhibit 3 and 4 provide samples of Category I and Category II MIPRs acceptance. See discussion of Category I and Category II MIPRs in e. Acceptance of MIPR below.

(2) When feasible, the MIPR shall be written in the Uniform Contract Format (UCF) of the FAR for the convenience of the Agency. Sections of the UCF may be omitted if not applicable to the procurement.

(3) If the time of delivery is essential, this information must be clearly written in the MIPR. If a short delivery schedule is mandatory, the MIPR shall be marked "URGENT" in bold letters on the first page, and the justification for the "Urgency" must be stated on the MIPR or attached thereto. Options must also be identified and a justification for same attached thereto.

Enclosure (12) to COMDTINST M4200.19F

(4) Insert the following statements on the first page of the MIPR:

(a) The required approvals have been obtained for this acquisition. (Insert name of Agency) is not authorized to exceed the (Insert amount of MIPR) to furnish the supplies or services hereunder without the prior written authorization from the Coast Guard Contracting Officer located at the address in Block 8.

(b) The funds on this MIPR will expire on (insert expiration date). Note: If the expiration date cannot be determined from the purchase request, the contract specialist shall contact the appropriate Coast Guard accounting office or Finance Center/General Accounting Office at (757)523-6764 for assistance.

(c) The U.S. Coast Guard Procurement Instrument Identification Number (PIIN) for this MIPR is (insert number shown in block 5). To facilitate reimbursement, show both the number in block 5 and the (number shown in block 3) on your invoice.

(d) For category I MIPRs:

(1) The original plus two copies of the invoice for items to be provided through reimbursement shall be submitted to the address in block 13.

(2) A copy shall also be sent to (insert name and mailing address of the contracting officer.)

(3) To ensure effective control of funds and accurate accounting the following information shall be provided with each SF 1080,

1081, or NAVCOMPT 2277: complete 15 position MIPR number, point of contact, telephone number, e-mail address.

(e) For Category II MIPRs, the original plus two copies of the invoice for items to be provided through direct citation of funds shall be submitted to the following address:

(insert name and mailing address of Coast Guard contracting officer).

(5) On occasion, the Agency may request advance payment in the full amount of the MIPR. The authority to make advance payments shall be written in the MIPR, and a monthly expenditure report shall be required from the Agency.

d. ISSUANCE OF MIPR

(1) Unless otherwise agreed to by the Agency, all MIPRs with funds expiring or subject to "carry over" on 30 September of each year (e.g. OE and CATEGORY II MIPRS) must be received by the Agency not later than 31 May of each year. If this date can not be met, the Agency shall be contacted prior to issuance of the MIPR, to ascertain whether or not it will be possible for the Agency to award a contract (obligate these funds) by the end of the fiscal year.

Enclosure (12) to COMDTINST M4200.19F

(2) If unforeseen problems develop after 1 August to prevent obligation of these funds by 30 September, the Agency should advise you in writing giving the reasons therefor. If the MIPR has not been accepted by 1 August, the Agency shall be contacted to obtain the status of the MIPR. If it is confirmed that the funds will not be obligated by the end of the year, immediately cancel the MIPR, obtain acceptance of the cancellation from the Agency, and notify the accounting and requiring offices to permit use of these funds prior to the end of the fiscal year.

(3) MIPRS citing continuing funds are not restricted by law to time limits for obligation; therefore, 31 May is not applicable to such MIPRS.

(4) The number of required signed copies of the MIPR (DD Form 448), the Acceptance of MIPR (DD Form 448-2), and the supporting documentation (where applicable) shall be mailed to the Agency. Internal distribution of the MIPR shall not be made until the Agency has returned

the ACCEPTANCE OF MIPR (DD Form 448-2) to the Coast Guard (See paragraph 4(f)(1)).

e. ACCEPTANCE OF MIPR

(1) The Agency must accept MIPRs on DD Form 448-2 I (Acceptance of MIPR) (Exhibits (3 and 4)) within 30 days after receipt. Exhibits 3 and 4 represent an example of how the acceptance may look. The funds cited on the MIPR are not considered obligated unless the Agency accepts the MIPR. Blocks 6(a) through (d) or a combination of these blocks must be checked by the Agency. These blocks indicate how Coast Guard's funds will be obligated. The following definitions apply:

(a) Block a., Category I - This category has two meanings:

1. The Agency will provide the supplies or services and will be reimbursed by the Coast Guard by submitting a billing to the Coast Guard for payment or;

2. The Agency will contract for the supplies or services, and cite their funds on their contract document, pay the Contractor, and the Agency will be reimbursed by the Coast Guard by submitting a billing to the Coast Guard for payment.

3. There are four forms of billing the Coast Guard:
Standard Form (SF) 1080 Voucher for Transfer between Appropriations and/or Funds, SF 1081 Voucher and Schedule of Withdrawals and Credits, SF 1034 Public Voucher for Purchases and Services Other Than Personal, and Navcompt 2277 Voucher for Disbursement and/or Collection.

(b) Block b., Category II - The Agency will contract for the supplies or services and cite Coast Guard's MIPR number and accounting data on the Agency's contract, contract modification, or delivery order. The Agency will project the date of award in Block 10. If you are using annual appropriation (OB Funds) and the date in Block 10 is after 30 September, you must advise the Agency that these funds cannot be utilized after 30 September. If Block 12(b) is checked, the excess funds shall be

Enclosure (8) to COMDTINST M4200.19F

withdrawn by an amendment to the MIPR. The successful offeror (Contractor) will submit their invoices directly to the Coast Guard for payment in accordance with the terms of the Agency's contract.

(c) Block c. - This block applies to Categories I and II mentioned above. Block 8 of PD Form 448-2 must be carefully scrutinized to determine how the funds under the MIPR were obligated. The procedures in paragraphs 4(e)(1)(a) and (b) above are applicable for the respective categories.

(d) Block d. is a Qualified Acceptance. - This is self-explanatory. Periodic contact with the Agency must be made until a final price has been determined. This price determination may require an increase or decrease to the estimated amount of the MIPR. If so, the Agency should notify you accordingly, and the appropriate amendment to the MIPR shall be written.

f. PROCEDURES AFTER MIPR ACCEPTANCE BY THE AGENCY.

(1) The executed MIPR, MIPR acceptance, and the Agency's contract, contract modification, or delivery order (if applicable) shall be distributed to the appropriate accounting office (to obligate the funds), the requiring office and any other interested persons. In cases where the Coast Guard Finance Center is the accounting office, copies of category I and II MIPRS and their acceptances must be sent to Commanding Officer (OGQ), USCG Finance Center, P.O. Box 4116, Chesapeake, VA 23327-4416.

(2) For Category II MIPRs for services, be sure to display the contractor's Taxpayer's Identification Number (TIN) in block 13 of the MIPR Acceptance DD Form 448-2 before distributing to the appropriate accounting office.

(3) Upon receipt of the Agency's contract, contract modification, or delivery order, the contract specialist must review the document to locate the item number(s) applicable to Coast Guard's requirement. The quantity, price, delivery schedule, and payment provisions, and other terms and conditions applicable to Coast Guard's item number should also be ascertained. All discrepancies shall be orally conveyed to the Agency and confirmed in writing.

(4) The Agency's contract document must be kept in the MIPR file for administration.

Note: In all cases where the Agency accepts the MIPR in an amount lesser than that committed on the MXPR, the DD Form 448-2 may be used as your authority to withdraw the excess funds by an amendment to the MIPR.

g. MIPR CHANGES/ADMINISTRATION.

(1) All changes to the MIPR must be accomplished by an amendment to the MIPR. The MIPR amendments must be numbered sequentially commencing with "0001." Only those items on the MIPR that are applicable to the change that differ from the original MIPR should be filled in. All

Enclosure (12) to COMDTINST M4200.19F

unchanged blocks must cite "N/C" (no change). Blocks 1 through 8 must always be filled in.

(2) A proposed MIPR amendment to increase quantities, change the scope of work, etc. shall not be issued until the Agency has been contacted to discuss the proposed change(s).

(3) All requirements for additional line items of supplies or services shall be obtained by a "NEW MIPR."

h. CANCELLATION OF CATEGORY II (DIRECT BILLING) MIPRS.

(1) When all or any part of the supplies or services are to be cancelled for MIPRS in this category, the Agency shall be notified by telegraphic notice. The Agency will advise the Coast Guard whether or not a contract has been awarded. If not awarded, an MIPR amendment shall be issued to formally cancel the requirement and withdraw the funds.

(2) If a contract has been awarded, the Agency will notify the Coast Guard within 45 days after receipt of the notice of cancellation. The notification will be a Termination Data Letter to the Coast Guard indicating the amount of funds to be immediately withdrawn, and the estimated amount of the settlement costs for the terminated contract.

(3) The Agency will review the termination proceedings at intervals of 60 days to assess the Government's probable obligation, and the Coast Guard will be advised accordingly. In any event, a MIPR amendment shall be issued to reflect the results of the termination.

i. CANCELLATION OF CATEGORY I (REIMBURSEABLE) MIPRS.

(1) When all or a part of the supplies or services are to be cancelled for MIPRS in this category, a telegraphic notice shall be provided to the Agency. The Agency should advise the Coast Guard within 30 days, the items that can be terminated, and the amount of funds in excess

of the estimated settlement costs that may be withdrawn by an amendment to the MIPR.

j. TERMINATION FOR DEFAULT.

(1) If the Agency elects to terminate its contract for Default, the Coast Guard will be asked whether or not the supplies or services are still required. The funds shall remain on the MIPR until the Agency provides written disposition instructions.

(2) If additional funds will be necessary to reprocure the supplies or services under a new contract, the Agency will request such from the Coast Guard, and a MIPR amendment to reflect same shall be issued.

k. MIPR PAYMENTS.

(1) If the Agency provides the supplies or services or contracts for same and pays the Contractor with its funds, the Agency will normally request reimbursement of costs by submitting a billing to the appropriate Coast Guard accounting office for prompt payment. The accounting office is not required

Enclosure (12) to COMDTINST M4200.19F

to obtain approval from the Contracting Officer prior to making payment because, these vouchers are not subject to audit or certification. Any cost/price adjustments will be made after the supplies or services have been delivered.

(2) Notwithstanding the above procedure, the Coast Guard contracting officer may require the agency to submit a billing to the contracting officer for review, after which the contracting officer will forward the billing to the appropriate Coast Guard accounting office for payment.

(3) If the agency acquires the supplies or services by contract, contract modification, or delivery order, and these documents require the Contractor to submit invoices directly to the Coast Guard, payment must be made to the Contractor in accordance with the terms and conditions of the contract, contract modification, or delivery order.

1. MIPR CLOSEOUT.

(1) The MIPR shall be promptly closed out after receipt,

acceptance, final payment, final disposition instructions for Government Furnished Equipment, and the removal of all excess funds, if any.

(2) All excess funds must be removed by an amendment to the MIPR which must be accepted by the Agency. The Agency and the Coast Guard accounting office shall be contacted to confirm the unexpended balance prior to removal of the funds.

(3) The execution of (1) and (2) above shall be considered to be all the steps necessary for closeout of the MIPR.

(4) The same procedures used for disposal of contract files to the Federal Records Center shall also be used for MIPRs.

Enclosure (12) to COMDTINST M4200.19F

LIST OF EXHIBITS

- a. EXHIBIT 1 - INSTRUCTIONS FOR COMPLETING MIPR (DD FORM 448)
- b. EXHIBIT 2 - MIPR (DD FORM 448) CATEGORY I OR CATEGORY II
- c. EXHIBIT 3 - MIPR ACCEPTANCE (DD FORM 448-2) CATEGORY I
- d. EXHIBIT 4 - MIPR ACCEPTANCE (DD FORM 448-2) CATEGORY II

Enclosure (12) to COMDTINST M4200.19F

EXHIBIT 1

Block 1 - Number of Pages to the MIPR.

Block 2 - Four digit Federal Stock Classification No.(FSC)(that identifies the class of items e.g. 7110 (Furniture), if applicable to the item being purchased. Insert "N/A" if this code does not apply. Assistance with the applicable code should be obtained from the procurement office.

Block 3 - Use the Purchase Control Number on the purchase request that is assigned by the Accounting office.

Block 4 - the date the MIPR is signed by the contracting officer.

Block 5 - This block must contain a Uniform Procurement Instrument Identification Number (PIIN) in accordance with Transportation Acquisition Manual (TAM) Subchapter 1204.602-7002. Make special note that for this document type 28, there must be an alpha character X in the ninth position of the PIIN.

Block 6 - Four digits in consecutively numbered sequence (e.g., 0001). If this is the basic MIPR document, not amendment, enter "Basic" in this block.

Block 7 - Name and address, including office symbol of the servicing agency.

Block 8 - Name, address, telephone number and point of contact at the Coast Guard procurement office.

Block 9 - Interdepartmental Government screening of the items to determine stock availability within the Government is required prior to issuing a MIPR. The procurement office should be contacted for assistance. Items available from Government stock must be obtained by issuance of a milstrip (DD Form 1348/1348m) or a Requisition and Invoice/Shipping Document (DD Form 1149). These documents are normally processed by the procurement office.

Block 10 - Self-explanatory.

Block 11 - Total amount of all items.

Block 12 - Enter the complete DAFIS line of accounting if a different account will be charged for transportation costs. If delivery terms are FOB Destination, then this block should be blank.

Block 13 - Enter the U.S. Coast Guard Finance Center's address following the Finance Center SOP if the MIPR involves DAFIS lines of accounting and is a Category I MIPR. The pay office

Enclosure (12) to COMDTINST M4200.19F

DODAAD for the Finance Center is Z51800. For non-DAFIS transactions, use an address applicable for the appropriate Coast Guard Supply Center.

Block 14 Complete as follows:

1. In the first two blocks "ACRN/Appropriation," use the Treasury symbol contained in the appropriation appendix of the Finance Center SOP. (The

term ACRN refers to Accounting Classification Reference Number.) The Agency normally requires ten characters; however, Coast Guard usually has seven, e.g., 69_0201 for Operating Expenses, and nine, e.g., 692/60240 for AC&I. These characters are translated as follows:

(a) For 69_0201: 69 denotes Coast Guard, _ denotes a space for the fiscal year of the funds, 0201 denotes Operating Expenses.

(b) For 694/80240: 69 denotes Coast Guard, 4 denotes first year the funds are available, 8 denotes year funds expire, 0240 denotes AC&I funds.

2. "Limit/Subhead" may be left blank.

3. Under "Supplemental Accounting Classification" provide the DAFIS line(s) of accounting as follows:

(a) Coast Guard designator - this will always be a "2."

(b) District or region - may be one alpha or one numeric character.*

(c) Appropriation - three numeric characters for OE or one numeric and one alpha character for AC&I. The first numeric in each case indicates the fiscal year in which the funds are available.

(d) Limitation - three numeric characters. For example, where OE funds are used, the first character is a "1" if direct funds are cited or an "8" if reimbursable funds are cited. The second and third characters refer to the district or region.*

(e) Allotment Fund Code (AFC) - two numeric characters, e.g. "30" denotes expense, "80" denotes reimbursable, "45" denotes vessels, "54" denotes ordinance.*

(f) Indicator - this will always be a "0."

(g) Program Element - two numeric or two alpha characters for non AC&I, or six numeric characters for AC&I.

(h) Cost Center - five numeric characters unique to each district, region, ship, etc.*

Enclosure (12) to COMDTINST M4200.19F

(i) Object class - Four numeric or two numeric and two alpha

characters which provide a further breakdown of a project. *For the typical DAFIS accounting string 2/H/401/199/30/O/CN/70070/2152 the following information can be ascertained from the application of (a) through (i) above:

- (a) Coast Guard appropriation.
- (b) A headquarters unit.*
- (c) FY94 (first character) O&E funds.
- (d) Direct funds are cited (first character) and a headquarters unit.*
- (e) Expense funds.
- (f) A place holder only which is always 0.
- (g) Non AC&I.
- (h) Unique cost center.*
- (i) Denotes travel funds.*

* The Finance Center SOP contains lists of the different districts or regions, AFCs, cost centers, object classes, etc.

4. Acctg. Sta DODAAD - The identification code of the Coast Guard procuring unit. It should be the letter Z followed by the unit Operations Facility (OPFAC) number. The proper number may be obtained from Comdinst M5440.2K Operations Facilities of the U.S. Coast Guard. This is the same code used to reflect addresses on milstrips (DD Form 1348) (See Block 9 above).

5. Amount - If items are funded by multiple appropriations, the amount for each appropriation must be shown under "supplemental accounting classification", and the totals must equal the amount shown in Block 11.

6. Blocks 15 and 16 - self-explanatory.

7. Block 17 - The date the MIPR is signed by the contracting officer and the date shown in Block 4 should be the same.

Enclosure (12) to COMDTINST M4200.19F

[IMAGE]

Exhibit 2. Military Interdepartmental Purchase Request

Enclosure (12) to COMDTINST M4200.19F

[IMAGE]

Exhibit 2 (Cont.)

Enclosure (12) to COMDTINST M4200.19F

[IMAGE]

Exhibit 3. Acceptance of MIPR

Enclosure (12) to COMDTINST M4200.19F

[IMAGE]

Exhibit 4. Acceptance of MIPR

CGAP ENCLOSURE (13) to COMDTINST M4200.19F

(RESERVED)

Semi-Annual Labor Compliance Report
(RCN-4200-9)

Date _____

1. This report covers period from _____ to _____, 19____
2. Number of prime contracts awarded: _____
3. Total dollar amount of prime contracts awarded: _____
4. Number of contractors against whom complaints
were received: _____

5. Number of investigations completed: _____
6. Number of contractors found in violation: _____
7. Amount of back wages found due:
- (a) Davis-Bacon Act (prevailing wage violations) _____
- (b) Contract Work Hours Standards Act (over-time violations) _____
8. Amount of back wages paid:
- (a) Davis-Bacon Act: _____
- (b) Contract Work Hours and Safety Standards Act: _____
9. Total number of back wages employees paid wage restitution under the Davis-Bacon and related Acts and or Contract Work Hours and Safety Standards Act: _____
10. Amount of liquidated damages assessed under the Contract Work Hours and Safety Standards Act: _____

Signed

_____ Name

_____ Title

_____ Unit

Enclosure (14) to COMDTINST M4200.19F

Instructions for Completing the Semi-Annual Labor Compliance Report

1. Enter the beginning and ending dates of the period covered by the semiannual report.

2. Enter the number of prime contracts which are subject to the Davis-Bacon Act or any of the related statutes listed in 29 CFR, Part 5, awarded by the agency and/or (where applicable) its operating and management contractors. Include federally assisted contracts subject to these Acts.
3. To the extent available, enter the total dollar amount of the contracts.
4. Enter the total number of contractors against whom complaints were received by your agency.
5. Enter the total number of full scale investigations completed by your agency. A full scale investigation is a complete and detailed investigation into the administration of labor standards provisions of the contract; do not include routine payroll checks. However, a full-scale investigation may be one limited to some portion of a contractors operations, such as a single paving crew.
6. Enter the number of contractors found in violation as a result of the investigations reports in item 5 above. Do not count a contractor or subcontractor more than once in a single investigation because of a violation of more than one Act, or because more than one contract is included in the investigation.
7. Enter the total amount of back wages which your agency found due employees of the contractors reported in item 6 above, showing under (a) the amount found due because of violations of the Davis-Bacon and Related Acts and under (b) the amount of wage restitution found due because of violations of the Contract Work Hours and Safety Standards Act.
8. Enter the amount of back wages paid under the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act.
9. Enter the total number of employees to whom the wage restitution reported in item 8 above is due. This figure is the unduplicated count; that is, an employee due wage restitution as a result of an investigation shall be counted only once, regardless of the fact that he may be due wage restitution under the Davis-Bacon and Related Acts and also due wage restitution under the Contract Work Hours and Safety Standards Act.
10. Enter the total amount of liquidated damages assessed as a result of violations of the Contract Work Hours and Safety Standards Act, including any such amounts assessed by your agency as a result of investigations made by the Department of Labor.

Enclosure (15) to COMDTINST M4200.19F

COAST GUARD ABOLISH RED TAPE IN CONTRACTING (ARTIC) PROGRAM

1. **PURPOSE.** This enclosure establishes policy and procedures for Coast Guard Contracting activities participation in the ARTIC program.
2. **APPLICABILITY.** Participation is authorized for Coast Guard contracting activities with formal (acquisitions in excess of the simplified acquisition threshold) contract authority.
3. **DISCUSSION.** The ARTIC program is designed to promote streamlining in the Coast Guard procurement process. The goal of this program is the elimination of unnecessary procurement regulations and procedures which impede the exercise of good business judgement in the procurement process. This will be accomplished through class deviation/waiver requests from formal contracting. The Deviation/Waiver (D/W) requests must be related to formal contracting procedures (acquisitions in excess of the simplified acquisition threshold) and justified by the contracting activity making the request.
4. **PROCEDURES.** The stages of the ARTIC process are as follows:
 - a. Contracting activities submit requests for class D/W from specific procurement regulations and procedures (Federal Acquisition Regulation (FAR), Transportation Acquisition Regulation (TAR), Transportation Acquisition Manual (TAM), Coast Guard Acquisition Procedures (CGAP) and Department of Transportation (DOT) or Commandant directives affecting procurement). Requests should contain rationale for the D/Ws based on sound judgement and good business practices.
 - b. Only regulations, policies or procedures (FAR, TAR, TAM, CGAP DOT or Headquarters requirements affecting procurement) related to large purchase procedures are covered under ARTIC. D/W requests from statutory requirements (e.g., provisions of the Competition in Contracting Act of 1984) cannot be considered.
 - c. Requests shall be signed, recommending approval, by the Chief of the Contracting Activity (COCO).
 - d. All ARTIC D/W requests should be addressed to Commandant (G-CPM). Written requests, with supporting information, may be transmitted via electronic mail, message, facsimile, or normal mail.

e. Each D/W shall provide: title of D/W request, regulatory/procedural cite, rationale/justification, proposed duration and method of oversight if D/W is granted, expected benefits, and statutory impact (if any). Contracting activities should sequentially number (001, 002, 003 and so on) their proposed D/Ws forwarded to Commandant (G-CPM).

Enclosure (15) to COMDTINST M4200.19F

f. D/Ws will normally be granted for one year. D/Ws may request deviations for a specific type of contract, i.e., ship repairs.

g. D/W requests for FAR or TAR class deviations or requests affecting Departmental Orders and TAN bulletins will be reviewed at the DOT level, as well as by Commandant (G-CPM).

h. Each D/W request will be reviewed expeditiously by Commandant (G-CPM). An estimated response date to each D/W request shall be provided within three (3) working days of its receipt by Commandant (G-CPM). Written responses to D/W requests will be transmitted via electronic mail, message, facsimile, or normal mail.

i. Contracting activities have the opportunity to benefit from an approved D/W by requesting that the approved D/W apply to them. In such cases, the requesting activity will have to provide its own justification/rationale for consideration on a previously approved D/W. The same review procedures required in c. through h., above, are applicable in these situations.

j. Assessment of the effectiveness of each approved D/W shall be made by each activity within nine (9) months from the approval date, and provided to Commandant (G-CPM) for a decision on future application of the D/W. Generally, assessments shall consist of: (1) actual experienced advantages and disadvantages of the approved D/W, (2) recommendation and rationale for wider implementation, cancellation, modification or continued testing of the D/W, and (3) estimated cost savings and/or time savings resulting from the D/W. The degree of detail in these submissions can be coordinated with Commandant (G-CPM) in advance.

k. Each D/W assessment by a contracting activity will be reviewed expeditiously by Commandant (G-CPM). An estimated response date to each D/W assessment shall be provided within three (3) working days of its receipt by Commandant (G-CPM). Each assessment review will result in Commandant (G-CPM) direction that the D/W will be: (1) canceled, (2) implemented on a wider basis, (3) modified, (4) continued to be tested, or

(5) waived on an indefinite basis (CGAP provisions) for the contracting activity. Waivers on an indefinite basis may be subject to reconsideration upon policy changes or deficiencies found during Procurement Management Reviews.

1. A listing of all active ARTIC D/Ws and recognition of contracting activities accomplishments will be published in the Procurement Electronic Newsletter (PEN).

5. Responsibilities.

a. The Chief of the Contracting Office should ensure that the activity ARTIC Coordinator or Point of Contact for each waiver is included in correspondence.

Enclosure (15) to COMDTINST M4200.19F

b. Commandant (G-CPM) is responsible for:

(1) Processing each D/W request.

(2) Monitoring the overall implementation of the Coast Guard ARTIC program.

(3) Interfacing with the Office of Acquisition and Grant Management (M-60) at the Department of Transportation for D/Ws as required.

6. POINT OF CONTACT. For additional information regarding this ARTIC instruction, please contact Ms. Desyria Short, Commandant (G-CPM-2), FTS 267-2635.

Enclosure (16) to COMDTINST M4200.19F

Date Due Annually at COMDT (G-CPM): 15 NOV

Date Prepared: _____

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)
U.S. Coast Guard Command Summary Report
For Previous Fiscal Year (FY)

Coast Guard Command: _____

Point of Contact: _____

Telephone & Fax Numbers: _____

E-Mail Address: _____

Each command will provide a summary report on purchases made from sources OTHER THAN a Federal Supply Center. Purchases made from a Federal Supply

Center will be reported for you by the command operating the center.

Note: You must report any applicable purchases under GSA schedule contracts.

I. EPA GUIDELINE ITEMS.

A. Cement and Concrete Products containing fly ash and cement and concrete products containing granulated blast furnace slag (slag).

1. Total amount of cement purchased and/or used by your command in PREVIOUS FY

Without fly ash or slag \$_____ and/or _____ cubic yards, and/or total number of contracts awarded _____

With fly ash or slag \$_____ and/or _____ cubic yards, and/or total number of contracts awarded _____

2. Total amount of concrete purchased and/or used by your command in PREVIOUS FY

Without fly ash or slag \$_____ and/or _____ cubic yards, and/or total number of contracts awarded _____

With fly ash or slag \$_____ and/or _____ cubic yards, and/or total number of contracts awarded _____

3. Were there technical impediments to increasing the amount of concrete and cement containing fly ash and granulated blast

please attach an explanation of the technical impediment.)

B. Paper and Paper Products. GSA and GPO will provide data for commands' purchases of paper products made through their retail and wholesale stock program. However, please provide amounts for command purchases from any other sources. Also, please report items ordered under GSA schedule contracts.

1. Total dollar amount of paper and paper products purchased by your command from sources other than GSA and GPO in PREVIOUS FY \$ _____

2. Total dollar amount of paper and paper products containing recycled material purchased by your command from sources other than GSA and GPO in PREVIOUS FY \$ _____

C. Motor Vehicle Lubricating Oils. DLA will provide data for commands' purchases of oil through their program. However, please provide amounts for command purchases from other sources.

1. Total amount of motor vehicle lubricating oil purchased by your command in PREVIOUS FY \$ _____ (If your vehicle maintenance is accomplished through service contracts that include a standard price for vehicle servicing, report the total number of servicing(s) rather than the dollar value.)

2. Total dollar amount of motor vehicle lubricating oils containing re-refined oil purchased by your command in PREVIOUS FY \$ _____
(If your vehicle maintenance is accomplished through service contracts that include a standard price for vehicle servicing, report the total number of services where the vehicle was serviced with re-refined oil rather than the dollar value.)

3. Were there any technical impediments to increasing the amount of motor vehicle lubricating oils containing re-refined oil purchased by your command in PREVIOUS FY? _____ (If yes, please attach an explanation of the technical impediment.)

D. Retread Tires. Refer to the Federal Supply Schedule for Pneumatic Tires, FSC Group 26, Part II, Section A for items covered by this guideline. TACOM will provide data for commands' purchases of retreads for tactical vehicles.

Enclosure (16) to COMDTINST M4200.19F

1. Total dollar amount of tires purchased by your command in PREVIOUS FY \$ _____
2. Total number of tires purchased by your command in PREVIOUS FY _____
3. Total dollar amount of retread tires purchased by your command in PREVIOUS FY \$ _____
4. Total number of retread tires purchased by your command in PREVIOUS FY _____
5. Were there any technical impediments to increasing the amount of retread tires purchased by your command in PREVIOUS FY? _____
(If yes, please attach an explanation of the technical impediment.)

E. Building Insulation Products.

1. Total dollar amount of building insulation products purchased by your command in PREVIOUS FY \$ _____ or total number of contracts awarded _____
2. Total dollar value of building insulation products containing recycled materials purchased by your command in PREVIOUS FY \$ _____ or total number of contracts awarded _____
3. Were there any technical impediments to increasing the amount of building insulation products containing recycled materials purchased by your command in PREVIOUS FY? _____ (If yes, please attach an explanation of the technical impediment.)

F. Engine Coolants.

1. For commands that maintain fleet maintenance facilities, how many fleet maintenance facilities do you operate? _____
2. How many vehicles are maintained? _____
3. How many of your fleet maintenance facilities own and

operate anti-freeze recycling equipment? _____

3

CH-1

Enclosure (16) to COMDTINST M4200.19F

G. Structural Fiberboard and Laminated Paperboard.

1. Total dollar amount of structural fiberboard and laminated paperboard purchased by your command in PREVIOUS FY \$ _____ or total number of contracts awarded _____

2. Total dollar amount of structural fiberboard and laminated paperboard containing recycled materials purchased by your command in PREVIOUS FY \$ _____ or total number of contracts awarded _____

3. Were there technical impediments to increasing the amount of recycled materials for structural fiberboard and laminated paperboard purchased by your command in PREVIOUS FY? _____ (If yes, please attach an explanation of the technical impediments.)

H. Carpet (low and medium wear polyester fiber only).

Provide any pertinent information to demonstrate your command's compliance/commitment to purchasing carpet (low and medium wear polyester fiber) in PREVIOUS FY. This information could include dollars spent, number of contracts, policies issued, pilot projects, etc.

I. Floor Tiles (rubber or plastic only).

Provide any pertinent information to demonstrate your command's compliance/commitment to purchasing floor tiles (rubber or plastic only) in PREVIOUS FY. This information could include dollars spent, number of contracts, policies issued, pilot projects, etc.

J. Traffic Cones and Traffic Barricades (rubber or plastic only).

GSA will provide data for commands' purchases of traffic cones and traffic barricades and those with recycled materials. However, please provide amounts for commands' purchases from any other sources.

1. Total dollar amount of traffic cones and traffic barricades

purchased by your command in PREVIOUS FY \$ _____

2. Total dollar amount of traffic cones and traffic barricades with recycled content purchased by your command in PREVIOUS FY \$ _____

CH-1

4

Enclosure (16) to COMDTINST M4200.19F

K. Office Recycling and Waste Containers (plastic, paper or steel).

Provide any pertinent information to demonstrate your command's compliance/commitment to purchasing office recycling and waste containers (plastic, paper or steel) in PREVIOUS FY. This information could include dollars spent, number of contracts, policies issued, pilot projects, etc.

L. Plastic Desktop Accessories.

GSA will provide data for commands' purchases of desktop accessories and plastic desktop accessories. However, please provide amounts for command purchases from any other source.

1. Total dollar amount of desktop accessories purchased by your command in PREVIOUS FY \$ _____

2. Total dollar amount of recycled content plastic desktop accessories purchased by your command in PREVIOUS FY \$ _____

M. Toner Cartridges.

GSA and DLA will provide data for commands' purchases of toner cartridges and recycled toner cartridges. However, please provide amounts for command purchases from other sources.

1. Total dollar amount of toner cartridges purchased by your command in PREVIOUS FY \$ _____

2. Total dollar amount of recycled toner cartridges purchased by your command in PREVIOUS FY \$ _____

N. Binders (chipboard and plastic covered, not cloth).

GSA will provide data for commands' purchases of binders and chipboard and

plastic covered binders. However, please provide amounts for command purchases from any other source.

1. Total dollar amount of binders purchased by your command in PREVIOUS FY \$ _____

2. Total dollar amount of recycled content chipboard and plastic covered binders in PREVIOUS FY \$ _____

5

CH-1

Enclosure (16) to COMDTINST M4200.19F

O. Plastic Trash Bags.

Provide any pertinent information to demonstrate your command's compliance/commitment to purchasing plastic trash bags in PREVIOUS FY. This information could include dollars spent, number of contracts, policies issued, pilot projects, etc.

II. SPECIFICATIONS. RCRA, Section 6002 (d) requires that Federal activities that have responsibility for preparing specifications: review them to eliminate unnecessary requirements for the use of virgin materials and prohibitions against using recovered materials; and add preferences for recovered materials.

A. Does your command have responsibility or control over a particular Federal supply class or group of specifications or standards? Yes _____ No _____

B. How many product specifications, standards, Commercial Item Descriptions (CIDs), product descriptions or similar documents does your command control? Number _____

C. How many such documents have been reviewed in PREVIOUS FY? Number _____

D. How many documents were modified in PREVIOUS FY to remove the requirements for the use of virgin materials? Number _____

E. How many documents were modified in PREVIOUS FY to remove references of language prohibiting the use of recovered materials? Number _____

F. How many documents were modified in PREVIOUS FY to add preferences for recovered materials? Number _____

G. Does your command have a policy to remove the requirements for virgin materials and add preferences for recovered materials to these service contracts? (i.e. including the use of re-refined oil in your vehicle service contracts).
Yes _____ No _____

H. If your command does have a policy like the above, please provide a copy to us.

I. If your command does not have a policy, please provide an explanation.

CH-1

6

Enclosure (16) to COMDTINST M4200.19F

III. SOLID WASTE PREVENTION

Please report solid waste prevention efforts for facilities for which your command is responsible.

A. Did you institute new solid waste prevention practices in PREVIOUS FY? Yes _____ No _____

B. If the response is Yes, please provide an explanation of those practices.

C. If the response is No, please provide an explanation of why not.

IV. RECYCLING.

A. What percentage of the offices/sites operated by your command have an active office products recycling program?
_____ Percent

B. What percentage of residential housing operated by your command have an active household products recycling program?
_____ Percent

C. What percentage of demolition projects managed by and/or

contracted by your command includes the recovery of construction materials? _____ Percent

D. What percentage of your total solid waste was diverted to recycling? _____ Percent

7

CH-1

Enclosure (17) to COMDTINST M4200.19F

REQUISITIONER DETERMINATION

COAST GUARD PROCUREMENT PREFERENCE PROGRAM FOR RECOVERED MATERIALS

1. The Statement of Work/Specification covering Procurement Request No. _____ is subject to DOT's Procurement Preference Program for Recovered Materials as set forth in TAM Chapter 1223.

_____ Yes
_____ No (If no, stop here)

If yes, the items are: _____

2. If yes, the specifications for the item(s) complies with the applicable Environmental Protection Agency (EPA) procurement guidelines as implemented by TAM Chapter 1223.

_____ Yes
_____ No

3. If answering "no" to the previous question, the requisitioner must check the appropriate reason below and provide an explanation as to why items containing recovered materials and meeting EPA procurement guideline recommendations (minimum content standards) as implemented by TAM Chapter 1223 were not used:

_____ EPA designated items re not available within a reasonable period of time.

_____ EPA designated items are only available at an unreasonable price.

_____ Use of minimum content standards will result in inadequate

competition.

____EPA designated items will fail to meet the performance specifications.

Explanation_____

Requisitioner's Signature

Date

Contracting Officer's Signature

Date

CH-1

Enclosure (18) to COMDTINST M4200.19F

Structured Source Selection

(a) General.

This enclosure establishes Coast Guard policy and guidance for evaluating proposals and selecting sources for the award of high dollar, competitively negotiated contracts. It prescribes Coast Guard procedures to further implement Federal Acquisition Regulation Part 15.3 and Transportation Acquisition Manual Chapter 1215.3 Source Selection.

(1) Applicability. The provisions of this enclosure apply to competitively negotiated procurements (regardless of whether the Head of the Contracting Activity (HCA) has delegated the source selection authority (SSA) function or retains it) when:

(i) the estimated price, including options, equals or exceeds \$20,000,000;

(ii) the estimated price, including options, of the

total value of contracts to be awarded under a single solicitation equals or exceeds \$20,000,000;

(iii) the estimated price, including options is less than \$20,000,000 but the procurement is designated a Major System in accordance with COMDTINST M4150.2(series); or

(iv) the estimated price of the procurement, including options, is less than \$20,000,000 but the contracting officer determines, in conjunction with the appropriate program officials, that selected, appropriate portions of the procedures outlined in this enclosure are to be followed. Contracting officers are, in any case, encouraged to modify these procedures for their use as much as practicable.

For purposes of this enclosure, the source selection process described herein shall be designated "structured source selection."

(2) Exceptions. The provisions of this enclosure do not apply to procurements:

(i) for architect-engineer services;

1

CH-1

Enclosure (18) to COMDTINST M4200.19F

(ii) for supplies or services acquired through General Services Administration multiple award schedules for which other procedures are prescribed in the FAR;

(iii) for grants and cooperative agreements;

(iv) from other Government (including State or local) agencies exclusive of procurements under the competitive 8(a) program; or

(v) resulting from Broad Agency Announcements.

(b) Policy and Procedures.

It is the goal of the Government to obtain the best value for any product and/or service being procured: this is especially true for complex, high dollar, negotiated procurements. It is essential to determine in an impartial, equitable and sound manner the source(s) that will provide such value. To ensure sound selection decisions, this

enclosure provides guidance as well as general and specific policies and procedures for conducting structured source evaluations and selections.

(1) Initiation of Structured Source Selection Procedures.

An SSA is designated to determine which offeror(s) shall be awarded the contract. The acquisition strategy and the criteria to be used in evaluating offers are detailed in a Selection Plan (SP) which is developed and approved in the early stages of a procurement.

(2) SSA Designation. The designation of the SSA for a particular procurement shall be in accordance with CGAP subchapter 1215.303, Responsibilities.

(3) Establishment of the Source Evaluation Board. Once the SP has been approved, a board, known as a Source Evaluation Board (SEB) comprised of members from various disciplines (e.g., program, technical, legal, pricing, budget, and contracting personnel) is formally established. The SEB is responsible for thoroughly and fairly evaluating

CH-1

2

Enclosure (18) to COMDTINST M4200.19F

proposals in accordance with the criteria contained in the SP and the solicitation, and reporting its findings to the SSA so that he/she can make the selection decision.

(4) Streamlining Techniques. Streamlining techniques may include the following: sending out draft specifications, statements of work, and RFPs to industry for comment; limiting the size of proposals and the number of people on SEBs and evaluation teams; holding oral presentations; holding one-on-one discussions; sequestering evaluation team members; making award without discussions; providing periodic briefings to the SSA throughout the acquisition process. Streamlining techniques are to be utilized whenever possible to ensure that procurements are awarded in an efficient and expeditious manner. Good planning and early document preparation are critical to reducing the time between release of the RFP and award of a contract.

(5) Documentation Requirements. All documents required by this enclosure (e.g., SP, Competitive Range Determination, Final SEB Report, Mission Need Statement, Acquisition Plan, Negotiation Memoranda, etc.) must be compatible with applicable sections contained in the Federal

Acquisition Regulation (FAR), Transportation Acquisition Regulation (TAR), Transportation Acquisition Manual (TAM), and Commandant Instruction (Comdtinst) M4150.2(series) Systems Acquisition Manual (SAM).

(c) Responsibilities.

(1) Source Selection Authority. The SSA is responsible for the proper and efficient conduct of the entire source selection process. The SSA has, subject to law and applicable regulations, full responsibility and authority to select the source(s) for award and approve the execution of the contract(s). The SSA's responsibilities include:

(i) reviewing and approving the SP in writing, including any subsequent change to the evaluation criteria or acquisition strategy;

(ii) appointing the SEB and any established oversight boards and ensuring they are properly constituted and include all the necessary disciplines;

3

CH-1

Enclosure (18) to COMDTINST M4200.19F

(iii) approving, as part of the SP approval, utilization of non-Governmental personnel who shall serve as advisors during the source selection process;

(iv) obtaining required conflict of interest documentation from the SEB Chairperson and other established oversight boards' Chairpersons, providing that documentation to legal counsel for review, and ensuring that the documentation is safeguarded;

(v) approving any course of action prior to award when only one competitor remains (e.g., if only one offeror submits a proposal or the SEB recommends only one offeror be included in the competitive range);

(vi) approving the necessity to call for more than one round of final proposal revisions;

(vii) ensuring against premature or unauthorized disclosure of source selection information;

(viii) approving a change of board chairpersons when necessary; and

(ix) making the final selection decision(s).

(2) Source Evaluation Board. SEB responsibilities and duties include:

(i) ensuring an in-depth review and evaluation of each proposal against the solicitation requirements, the evaluation criteria stated therein, and the approved evaluation plan;

(ii) transmitting to the contracting officer identified areas for clarifications, weaknesses, deficiencies, or other items for discussions;

(iii) providing recommendations to the contracting officer regarding release of any amendments to the solicitation;

(iv) providing recommendations to assist the contracting officer in making the competitive range determination;

CH-1

4

Enclosure (18) to COMDTINST M4200.19F

(v) using sound business judgment to provide the SSA with a sound basis for making an informed and objective decision on the offeror(s) to receive award; and

(vi) providing briefings and consultations as required by the SSA.

(3) SEB Chairperson (or Co-Chairperson(s)). The SEB Chairperson (or CoChairpersons, if desired by the SSA) responsibilities and duties include:

(i) exercising oversight of all procedural and administrative aspects of the SEB;

(ii) making final decisions on all issues for which the SEB is evenly divided and for which the contracting officer is not otherwise responsible;

(iii) scheduling and conducting SEB meetings;

(iv) ensuring that all SEB members are familiar with the provisions of this enclosure;

(v) briefing SEB members, evaluation team members and advisors on the sensitivity of the SEB process, the prohibition against unauthorized disclosure of information (including their responsibility to safeguard proposals and any documentation related to SEB proceedings). and the requirements pertaining to conflict of interest;

(vi) obtaining required conflict of interest documentation from SEB members, evaluation team members, and advisors, providing that documentation to legal counsel for review, and ensuring that documentation is safeguarded;

(vii) ensuring that the Procurement Integrity Act provisions contained in FAR, TAR and CGAP are followed;

(viii) appointing Chairpersons of evaluation teams and ensuring that the evaluation teams are briefed early in the process on

Enclosure (18) to COMDTINST M4200.19F

their responsibilities before commencing a review of the proposals;

(ix) ensuring that the SEB Recorder prepares minutes of the SEB meetings and that those minutes are made available to each SEB member and accurately reflect the activity of meetings;

(x) replacing SEB members, evaluation team members and advisors when necessary;

(xi) recommending, with the advice and guidance of the other SEB members, to the contracting officer those offerors to be included in the competitive range; and

(xii) preparing the documentation, at the SSA's request, that provides the SSA's rationale for his/her decision.

(4) Evaluation Teams and Advisors.

(i) Team Chairperson. The Team Chairperson's responsibilities and duties include:

(A) exercising corresponding responsibility for the team as the SEB Chairperson does for the Source Evaluation Board;

(B) consolidating all comments from members of the team and preparing an evaluation team report to the SEB;

(C) tabulating the results of the team members' scores or ratings; and

(D) preparing and providing briefings to explain team findings when requested to do so by the SEB.

(ii) Teams. The teams' responsibilities and duties include:

(A) assisting the SEB in the evaluation process through providing specialized expertise (e.g., quality assurance, pricing, technical. business/management);

CH-1

6

Enclosure (18) to COMDTINST M4200.19F

(B) evaluating proposals and submitting findings (including clarifications, weaknesses, deficiencies, and other items for discussions) in writing to the Team Chairperson; and

(C) ensuring proposals and evaluation comments in their possession are safeguarded.

(iii) Advisors. Advisors shall be Government personnel appointed by the SEB chairperson and shall provide guidance to the SEB when their essential special expertise is not available on the SEB or one of the evaluation teams. Non-Government personnel may also be appointed as advisors by the SSA.

(d) Operations.

(1) Composition of the SEB.

Generally, the SEB membership should not be less than three nor

exceed seven members, including the Chairperson. There shall be no more advisors assisting the SEB than are warranted by the SEB's actual needs for specialized guidance. Normally, the members of the SEB will include a Program Manager, contracting officer, and heads of the evaluation teams. Advisors should include legal counsel, technical experts, procurement policy representatives, operational users, pricing, contracting, and quality assurance personnel. The SEB shall have a Chairperson and a SEB Recorder (normally appointed by the Chairperson). For any procurement designated a major systems acquisition or when the HCA retains the SSA authority, advisors shall include a representative from Commandant (G-LPL) and Commandant (G-CPM). For other than major systems acquisitions, advisors shall include legal and procurement policy individuals at a professional level commensurate with the complexity of the acquisition and the resources available to the Command. If requested, Commandant (G-CPM), as staff advisor to the HCA, shall have access to any official solicitation or contract file for review.

(2) Responsibilities.

(i) SEB duties shall take priority over normal duty assignments. The SEB Chairperson will determine whether to replace advisors or SEB and evaluation team members under such conditions as

Enclosure (18) to COMDTINST M4200.19F

reassignment, illness, or when the evaluation could be prejudiced or progress on the procurement is impeded by nonparticipation of personnel. The SSA shall replace the SEB Chairperson or other established board member when these same conditions apply. Such replacements shall be justified in writing. Alternate members are not allowed.

(ii) Advisors and SEB and team members are personally responsible for safeguarding proposals, notes, and copies of documents related to the SEB's activities for the duration of the proceedings. It is strongly encouraged that all documentation relating to a proposal evaluation be kept at and controlled from a central secure location to ensure minimum possibility of disclosure.

(iii) Full discussion is encouraged on all matters considered by the SEB. Differences of opinion are to be explored in order to reach a common understanding or statement of the issues. When a disagreement cannot be resolved, the minutes of the meetings shall reflect

dissenting positions and reasons. Matters relating to the conduct of proposal evaluations shall be decided by a vote of the members with the Chairperson having the final authority in the event of a tie. Matters related, but not directly a part of the evaluation, (e.g., whether the RFP should be amended to include a certain clause, whether a requirement should be changed, or other areas where there is an individual(s) with clearly established authority responsible for the decision) should be discussed at the Board meeting, but the final decision should rest with the responsible party (i.e., contracting officer, Program Manager, legal, etc.).

(iv) Since team members and advisors are to be utilized in discrete areas, they must not be given access to information concerning overall SEB activities factors. Team members and advisors shall not attend SEB meetings unless specifically requested to do so by the SEB Chairperson.

(3) Disclosure of information.

(i) The SSA, SEB, team members, and advisors shall not discuss SEB proceedings with the firms involved. Furthermore, sensitive information (e.g., cost/price data, technical scores) shall not be discussed with team members and advisors, except on a need-to-know basis,

CH-1

8

Enclosure (18) to COMDTINST M4200.19F

as determined by the SEB Chairperson. However, information shall be disclosed, upon request, to the Office of Inspector General if pertinent to a specific audit, investigation or review.

(ii) All questions relating to the RFP, both prior to and after issuance, from sources outside the SEB, shall be referred to the cognizant contracting officer.

(iii) Any requests for information under the Freedom of Information Act should be referred to the contracting officer for action by the appropriate Freedom of Information Act Officer unless other written procedures have been established.

(v) Taped recordings of SEB proceedings shall not be made without the knowledge and consent of all SEB members.

(4) Conflict of interest. Any SSA, SEB member, oversight board member, team member, or advisor who has (or whose immediate family has) stockholdings, investments, or other financial, business, or employment relationship with any of the potential or actual offerors or their competitors may be unable to render impartial, technically sound, and objective assistance or advice. In these circumstances, the individual may be subject to criminal sanctions or disciplinary action for participating in the source selection process.

Prior to submission of the SP, it is strongly recommended that the cognizant Ethics Officer brief the SEB, and any other panels or boards. At that time each nominated SEB member, team member, and advisor shall submit a written statement identifying all immediate family financial, business, and employment relationships to the nominated SEB Chairperson. The nominated SEB Chairperson and oversight board members shall submit to the cognizant Ethics Officer, his/her own as well as the other written statements. Office of Government Ethics (OGE) 450, Confidential Disclosure Report, is to be used unless otherwise directed in writing by the SSA. The SSA shall also file the Confidential Statement of Employment and Financial Interests. The cognizant Ethics Officer will review each statement for actual or apparent conflicts of interest. If it is

Enclosure (18) to COMDTINST M4200.19F

determined that an actual or apparent conflict of interest exists, the cognizant Ethics Officer will proceed in accordance with Subpart D of 5 CFR Part 2635. The SEB file must clearly document the action taken in all conflict of interest cases. The SF 450 shall be updated and resubmitted if an individual's financial business or employment relationship changes which could result in a conflict of interest.

(e) Overview of phases of evaluation and selection process.

There are several potential phases and activities in the source evaluation and selection process. It is possible that these phases will overlap, or that one or more could be eliminated or repeated. This will depend on the unique features of the particular acquisition. The remainder of this enclosure deals more or less chronologically with these general phases.

(f) SP Preparation.

An SP is to be prepared prior to or concurrently with the development of the RFP. The SP shall be submitted for approval to the SSA. Generally, the contracting officer prepares the SP in coordination with the Project Manager and other cognizant technical representatives. The SP must be approved prior to release of the RFP. For routing and document handling procedures, see CGAP 1215.303-90 through -93.

(1) Selection Plan Documentation.

(i) The Selection Plan (SP) establishes the SEB and sets forth the approach for conducting the proposal evaluation process.

(ii) The SP must be a complete document that leaves no doubt as to the SSA's objectives in the conduct of the procurement. It must be drafted with the understanding that it incorporates direction and guidance from the SSA and must be written from the SSA's point of view. The SP should be written in a concise, unambiguous manner.

(2) Content. The SP will include the following sections:

CH-1

10

Enclosure (18) to COMDTINST M4200.19F

(i) Introduction. Describe briefly (about one page) the supply or service to be acquired and how it is intended to satisfy the approved requirement. A special note should be made if it is part of other ongoing or planned acquisitions. Any previously approved documents (e.g., Acquisition Plan, Delegation of Procurement Authority) or actions required by law or regulations shall also be noted. The total estimated amount of the procurement and its duration shall be included.

(ii) Organization. Describe, as appropriate, the proposed SEB. List recommended members and advisors, by name, if known, or by position title or functional area. The SP must specify other organizations (e.g., Government agencies, contractors, etc.) that will be represented during the source selection process; it should also identify any management personnel who expect to participate in any phase of the acquisition or require access to source selection information. If an individual is not listed in the SP, then that person may not have access to source selection information unless subsequently authorized in writing by the SSA.

(iii) Schedule of events. Identify and schedule

significant source selection activities. This information should be provided in sufficient detail to allow the reviewing authorities to assess the practicality of the schedule.

(iv) Evaluation procedures. The evaluation criteria for the procurement shall be included in the SP and shall be identical to that included in Section M of the RFP.

(g) Preparation of RFPs.

(1) Development of RFP.

(i) Preparation. The RFP shall be prepared in accordance with applicable regulations and procedures concurrently with the development and processing of the SP. The RFP shall be prepared by the contracting officer with assistance from the Program Manager and should be coordinated with the anticipated SEB members.

(ii) SEB Involvement in RFP Preparation. If the Program

Enclosure (18) to COMDTINST M4200.19F

Manager or contracting officer believes it would be more efficient, the proposed SEB may convene informally to assist in preparation of the RFP to ensure input from all appropriate sources and to simplify coordination. However, final decisions regarding the content and structure of the RFP (with the exception of Section M evaluation criteria) rests with the contracting officer.

(iii) Section M (Evaluation criteria) of RFP/SP. After the SP has been approved by the SSA, Section M of the RFP is constructed to completely concur with the evaluation criteria in the SP. Final authority for approval of the SP and the evaluation criteria rests with the SSA. Solicitations shall not be released until approval of the SP by the SSA has been obtained. If the RFP, as finalized, has Section M changes that are not substantively different than that approved as part of the SP, the changes need not be submitted to the SSA for approval.

(h) Preproposal conference.

(1) Decision. Contracting officers, in conjunction with input from the Program Manager, should consider holding a preproposal

conference to brief prospective offerors after a solicitation has been issued but before proposals are received.

(2) Schedules for preproposal conference. The conference should be scheduled to permit prospective offerors sufficient time after the issuance of the RFP to become familiar with the solicitation requirements yet not too late to allow meaningful use of the information obtained at the conference.

(3) Agenda. The conference should include a presentation of the significant aspects of the procurement, followed by a question and answer session. A record of all information provided at the conference, together with a copy of all questions and answers, shall be provided to all prospective offerors. If it becomes apparent at the conference that the RFP needs revision, the revised requirements must be included in a written amendment.

CH-1

12

Enclosure (18) to COMDTINST M4200.19F

(i) Evaluation criteria - Evaluation factors and significant subfactors.

(1) General.

(i) The evaluation criteria form the basis by which each offeror's proposal is to be evaluated. Evaluation factors and significant subfactors shall be developed and tailored to the characteristics of a particular requirement in accordance with FAR 15.304, Evaluation factors and subfactors.

(ii) FAR 15.304 indicates evaluation factors and significant subfactors that apply to an acquisition and their relative importance are within the broad discretion of the agency. Evaluation criteria and their relative importance should be defined in the early stages of solicitation development and are the responsibility of the Program Manager and the contracting officer. All evaluation factors and significant subfactors must be stated in the solicitation and shall not be developed to favor any one offeror over another. Generally, evaluation criteria should not be changed after the issuance of the solicitation unless there are compelling reasons. Evaluation factors and significant subfactors should not be changed after proposals are received except in extraordinary circumstances. Any substantive change requires SSA approval.

(2) Criteria Categories. Normally the SSA considers two or three types of evaluation factors when making a selection. These are:

(i) Price or Cost which reflects what it will probably cost the Government and which must be considered in accordance with FAR 15.304(c)(1);

(ii) Quality of the product or service which considers one or more non-cost evaluation factors such as compliance with solicitation requirements, technical excellence, management capability, personnel qualifications, and prior experience and which must be considered in accordance with FAR 15.304(c)(2);

(iii) Past performance which considers the quality of previous work accomplished by the offerors. (Also note past performance

Enclosure (18) to COMDTINST M4200.19F

may be a subfactor under (ii) above.) The SEB must be extremely careful in making the judgments and conclusions required under this factor, but must not hesitate to assess relevant experience and past performance, positively or negatively, when the information received would reasonably support such an assessment. It should be noted that this factor addresses evaluation of overall relevant experience and past performance for the company, not the experience and past performance of individuals involved with contract performance (the latter are to be evaluated under technical criteria - key personnel). The manner in which this factor will be used in the evaluation and the sources which will be queried to obtain information must be clearly identified in the RFP. Past performance may include, but is not necessarily limited to:

(A) experience on similar work;

(B) corporate experience;

(C) past demonstrated ability to meet schedule and cost constraints;

(D) past demonstrated ability to achieve program objectives;

(E) quality of product/service delivered on other

efforts; and

(F) input obtained from outside sources (i.e., evaluation does not have to be limited to information provided in the proposal), provided that the input is documented in writing and reasonable attempts have been made to obtain such input for all offerors and provided that the RFP clearly notifies offerors that non-proposal information may be considered; and

(iv) The extent of participation of small disadvantaged business concerns in unrestricted acquisition expected to exceed \$500,000 (\$1,000,000 for construction) shall be evaluated (see 19.201 and 19.1202).

(v) Other considerations include, if necessary, those factors stated in the RFP, other than cost, quality, and relevant past performance criteria that can affect contract performance and that the SSA

CH-1

14

Enclosure (18) to COMDTINST M4200.19F

will consider in making a final selection. Other considerations criteria must be specifically identified in the RFP to be considered by the SSA in making a selection decision. They may include factors such as:

(A) technical approach;

(B) results of prototype testing;

(C) production readiness;

(D) financial condition and capability;

(E) labor management relations; and

(F) geographic considerations regarding the work to be performed.

(3) Relative importance of criteria. All factors and significant subfactors for a particular procurement as well as their relative importance, shall be stated in section M of the solicitation. Technical criteria may be adjectively rated or numerically scored. For Coast Guard procurements, the rating method shall not be disclosed in the solicitation. Cost, relevant experience and past performance, and other

considerations shall be adjectively rated and shall not be numerically scored unless approved by the SSA. See further information on "Weighting and Ranking Methodology" within this enclosure.

(4) Weighting and ranking methodology.

(i) The SEB shall determine how evaluation criteria (contained in the SP and Section M of the RFP) will be assigned to teams for evaluation and will make team assignments. Each Team Chairperson will be provided with written instructions by the SEB as to the function and scope of the team.

(ii) As noted earlier the evaluation criteria and their relative importance shall be included in the RFP. If weighted, specific weights should be developed by the Program Manager and the contracting officer in consultation with the anticipated SEB members. The specific weights shall not be disclosed in the RFP, however, care should be taken to avoid the impression of a mathematical evaluation devoid of judgment.

Enclosure (18) to COMDTINST M4200.19F

Any specified weights are intended to be used by the SEB solely to determine the ranking of proposals and by the SSA as a guideline for assessing the relative merits of proposals.

(5) Evaluation Plan

(i) Teams may develop their own subcriteria which are consistent with the evaluation criteria set forth in the RFP. However, these criteria must be included within the evaluation plan which is approved by the SEB prior to release of the RFP. The evaluation team assignments and the establishment of team evaluation plans which include evaluation subcriteria, weights, and a measuring methodology for determining how well each offeror's approach meets the requirements shall be approved by the SEB prior to release of the RFP unless the SEB Chairperson grants a time extension. In no event shall proposals be released to the evaluation teams before these evaluation plans have been approved by the SEB. Extreme judgment must be exercised when establishing subcriteria and weights. FAR 15.304(d) states that all factors and subfactors that will affect award and their relative importance shall be stated clearly in the solicitation. Thus, if subcriteria are developed, they may not be so substantial as to change the merit or relative

importance of any published factor or subfactor.

(ii) Evaluation plans must define standards against which the proposals will be measured. It is preferable to use a simple, common system for structuring evaluations (e.g., 100 points if a scoring system is used; "excellent, good, satisfactory, poor," if adjectives are used, etc.).

(iii) The evaluation plan shall also provide for a method of identifying significant differences so they do not get lost in mathematical roll-ups of scores. For example, two offers with a score of 20 may not necessarily present equal risks on selection. One may have consistent strengths and weaknesses while the other is stronger in some areas but may have a critical weakness that could seriously affect subsequent performance. The evaluation plan should have a mechanism for highlighting this type of critical issue.

(iv) Any evaluation-related information, if not

CH-1

16

Enclosure (18) to COMDTINST M4200.19F

included in the RFP, shall not be released to any potential offeror nor to anyone who is not directly involved in the source selection evaluation effort without concurrence of the SSA.

(j) Proposal Evaluation.

(1) Receipt of Proposals

Upon receipt of proposals, the contracting officer shall take precautions to ensure the information is safeguarded. Once the proposals have been delivered to the SEB by the contracting officer, it is the SEB Chairperson's responsibility to ensure that all participants safeguard this material. Evaluation of proposals should begin immediately and be conducted in a fair, comprehensive, and impartial manner. The contracting officer is responsible for collection and final disposal of the proposals.

(2) Review of the proposals

(i) Evaluator responsibilities. Evaluators are required to evaluate each proposal and document their findings. Evaluators are expected to understand the requirement, the solicitation,

the evaluation criteria and their relative importance, and the measuring methodology. They must be well-versed in their professional fields.

(ii) Convening of evaluation teams. The initial phase of evaluation generally will involve established teams. As promptly as possible, teams are to be convened. The teams shall be provided with proposals or portions of proposals to be evaluated, instructions regarding the expected function of each team, and all data considered necessary or helpful. At this point offerors may be allowed to provide the SEB evaluation teams with a general briefing on their proposals. In the event of any inconsistency between this presentation and an offeror's proposal, the proposal takes precedence.

(iii) Written evaluation team reports. While oral reports may be given to the SEB, the team function requires the submission of a written report which shall include:

(A) a summary of the findings of the evaluation team, including an evaluation worksheet summarized for the team as a

17

CH-1

Enclosure (18) to COMDTINST M4200.19F

whole; evaluation of proposals against the standards set out in the evaluation plans must be conducted independently; proposals are not to be evaluated comparatively;

(B) a statement for each proposal describing any clarifications, strengths, weaknesses, deficiencies, and risks which significantly affected the evaluation and stating any reservations or concerns, together with supporting rationale, which the team or any of its members wants to bring to the attention of the SEB. The report shall also recommend items for discussion. Concerns and items for discussion should reflect the evaluation criteria and address the appropriate elements such as soundness of approach, understanding of requirements and risks, and;

(C) copies of team members' individual worksheets and all supporting comments to the lowest level of evaluation based on the evaluation plan; this information is to be retained by the contracting officer for unsuccessful offerors.

(iv) Traceability. It is imperative that the SEB provide clear traceability throughout the evaluation process. This

traceability must exist at all levels of the SEB process. All reports submitted by teams will be retained as part of the SEB's records. All final evaluation team reports are to be included as part of the Final SEB report to the SSA. Contents of the final SEB report are discussed elsewhere in this enclosure.

(v) Predetermined cutoff points. Setting predetermined cut-off points based on scores is not allowed.

(vi) RFP Alternatives and/or Options. Alternatives and/or options may be included in the RFP. Even if they are not, offerors may be allowed to propose alternatives or options in an appendix to their proposals. Alternatives not in full compliance with the solicitation can only be accepted after amending the RFP and giving all offerors the opportunity to revise their proposals. If any of the alternative approaches or options are found to be technically desirable, they may need to be costed, depending upon the decision by the SEB Chairperson as to how the alternative or option proposal is to be handled. Close technical

CH-1

18

Enclosure (18) to COMDTINST M4200.19F

coordination is required to determine the actual incremental cost of an alternative or optional approach. The validity of the ensuing trade-off analysis depends heavily on this cost/technical interaction.

(vii) Dissemination of cost proposals to technical evaluators. For Coast Guard acquisitions, offerors' cost proposals will not be made available to technical evaluators unless authorized by the SEB Chairperson. If it becomes necessary for a technical evaluator or team to support the cost panel's review of the cost proposed for a particular aspect of a proposal in order to evaluate cost realism properly (e.g., the compensation plan for professional employees), the SEB Chairperson shall ask the contracting officer to make suitable arrangements for this limited review.

(viii) Cost proposal verification. Cost evaluators may need to discuss the details of technical proposals with the technical personnel to aid in their evaluation of costs associated with labor categories and hours, materials, manufacturing processes, and other elements of cost. Cost evaluators may also need to discuss the Government estimate with the individual who prepared the estimate. Such discussions shall be held only with contracting officer oversight. Cost evaluators

should also use Defense Contract Audit Agency reports and Defense Contract Management Command Field Price Analysis reports when appropriate.

(ix) Review of Evaluation Team Findings. It is the responsibility of the SEB to review the findings of the evaluation teams. The SEB shall ensure that the cost team is informed of the identified technical and programmatic risk areas to assess the potential for cost impact. The Team Chairperson shall attempt to resolve differences of opinion among evaluation team members; if differences of opinion cannot be resolved and are significant, such reservations shall be set forth in a written minority opinion to the team findings.

(x) Differences of opinion among SEB or team members. SEB members shall attempt to resolve differences of opinions among themselves, and when requested, by the Team Chairperson, among evaluation team members. However, if the differences of opinion cannot be resolved and are significant, such reservations shall be expressed in the

Enclosure (18) to COMDTINST M4200.19F

competitive range and/or final SEB reports as minority opinions. In the event of a competitive range decision, when there are serious differences that cannot be resolved by the SEB, the Chairperson and contracting officer shall determine whether the SSA should be consulted before a competitive range determination and document such a decision for the files.

(k) Exchanges with Offerors and Determining the Competitive Range.

(1) Exchanges with offerors.

Clarifications are defined by FAR as limited exchanges between the Government and offerors that may occur when award without discussions are contemplated. Communications are defined by FAR as exchanges between the Government and offerors, after receipt of proposals, leading to establishment of the competitive range. Negotiations are defined by FAR as exchanges, in either a competitive or sole source environment, between the Government and offerors, that are undertaken with the intent of allowing the offeror to revise its proposal. Discussions are defined by FAR as negotiations conducted in a competitive acquisition, when they take place after establishment of the competitive range. Team Chairpersons shall provide the SEB (or the contracting officer if so directed by the SEB Chairperson). in writing, any noted questions during clarifications,

communications or negotiation and discussions, for each offeror as they are identified so that any requisite information can be obtained promptly from offerors. Weaknesses and deficiencies are to be identified in the competitive range report for use in negotiations and discussions, but revisions of proposals in response to weaknesses and deficiencies shall not be obtained until a competitive range has been set.

(2) Basis of competitive range determination.

If negotiations or discussions are to be conducted, the contracting officer, after consultation with the SEB members (See (7) below), shall make a written determination of competitive range prior to commencement of negotiations or discussions. This determination shall be based on the ratings of each proposal against all evaluation criteria, unless the range is further reduced for purposes of efficiency pursuant to FAR 15.306(c)(2). Responses to communications from the offerors may be considered.

CH-1

20

Enclosure (18) to COMDTINST M4200.19F

(3) Comparison of offerors' proposals.

The competitive range decision, unlike the proposal evaluation, does require comparison of the offerors' proposals. The competitive range should be based on the quality of the offerors' proposals relative to each other, and to the Government's requirement. Contents of the competitive range determination are discussed elsewhere in this enclosure.

(4) Single Offeror in Competitive Range.

If the competitive range determination results in only a single proposal remaining, the contracting officer shall review the solicitation to assure that it does not unduly restrict competition and include a statement in the competitive range determination, with supporting rationale, that the solicitation was not restrictive. The SSA must approve the competitive range determination. At this point, these structured source selection procedures would cease to be used and the contracting officer would negotiate with the single remaining offeror.

(5) Notification of Elimination of Offerors.

The contracting officer shall promptly notify offerors in writing

when their proposals are excluded from the competitive range or otherwise eliminated from competition (see FAR 15.503).

(6) Discussions.

(i) If it is determined that negotiations and discussions are necessary prior to award, such exchanges shall be held with all offerors who are in the competitive range. The contracting officer is responsible for controlling all such exchanges with offerors and must tailor the exchanges to each offeror's proposal.

(ii) All offerors selected to participate in oral or written negotiations and discussions must be advised of the time and place for conducting these exchanges, the Government participants, and the topics for discussion. Offerors are also to be informed of any further information required, significant weaknesses, and/or deficiencies in their proposals in advance of the meeting.

21

CH-1

Enclosure (18) to COMDTINST M4200.19F

(iii) Negotiations and discussions should include exchanges concerning weaknesses and deficiencies as well as any other aspects of the proposal that could in the opinion of the contracting officer be altered or explained to enhance the proposal's potential for award. It may also include bargaining, defined in FAR 15.306(d) as ".persuasion, alteration of assumptions and positions, give-and-take, and may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract." Exchanges may include information to the offeror that the Government considers its price too high or too low and may also indicate to all offerors the cost or price that the Government considers reasonable. Exchanges may not include disclosure of the relative strengths and weaknesses of competing offerors, or technical information or ideas. The contracting officer may not reveal another offeror's price unless that offeror grants permission.

(iv) In addition to negotiations and discussions of an offeror's weaknesses and deficiencies, contracting officers should ensure any special clauses, provisions or deviations have been discussed and agreed upon prior to requesting or allowing proposal revisions. If after discussions have begun, the contracting officer determines an offeror is no longer highly rated enough to remain in the competitive range, that offeror may be eliminated in accordance with FAR 15.306(d)(4).

(7) Competitive range determination documentation.

The SEB shall prepare for the contracting officer a report documenting its recommendations, to assist the contracting officer's determination of the competitive range. It is the SEB Chairperson's responsibility to ensure the report is completed. Emphasis is to be placed on substance rather than form in the report. It should form the basis for the subsequent final SEB report. It is recommended that the competitive range determination follow the format for the final SEB Report to minimize duplication of effort, inconsistencies, and save time. The report shall discuss all proposals received and shall include, as a minimum, the following:

(i) The requirement. Provide a brief narrative description of the item or service being procured.

CH-1

22

Enclosure (18) to COMDTINST M4200.19F

(ii) Overview of procurement. This shall be the equivalent of an Executive Summary and address such things as:

(A) funds (type and amount);

(B) type/number of contract(s) to be awarded;

(C) significant milestones;

(D) period of performance;

(E) number of solicitations issued, number and names of offerors, and any offerors eliminated on the face of their proposals; and

(F) evaluation criteria.

(iii) Evaluation findings. This shall indicate the results of the evaluations completed thus far as amended to reflect the results of any communications, and any contemplated further analysis prior to negotiations (e.g., cost analysis). It is intended to assist the contracting officer in making his competitive range determination. It should:

(A) include a comparison of evaluation criteria, weights and offerors' scores;

(B) compare offerors' proposed amounts and a general discussion of the SEB's preliminary analysis of realism and adequacy of cost proposals;

(C) summarize what the SEB considers significant discriminators among proposals: also, list the strengths and weaknesses (including deficiencies and risks) in offerors' proposals and proposed items for negotiation and discussion in accordance with the evaluation criteria;

(D) provide a recommendation to the contracting officer on each proposal as to whether the offeror should be included in the competitive range; and

(E) provide recommended topics for discussion with each offeror.

23

CH-1

Enclosure (18) to COMDTINST M4200.19F

(I) Proposal Revisions.

At the conclusion of negotiations and discussions, a final common cutoff date must be established which allows a reasonable opportunity for offerors still in the competitive range to submit written proposal revisions. Revisions shall include confirmation of all pertinent oral or written correspondence which occurred subsequent to the initial proposal submittals up to and including understandings reached during negotiations.

(1) Written Notification to Offerors.

Offerors shall be notified in writing that certain actions are required of them:

(i) Confirmation of Proposal. After discussions are concluded, offerors must confirm that their latest previous proposal is still valid or submit a revised proposal by the final common cutoff date;

(ii) Substantiation of Changes. Changes that are not fully substantiated may have a negative impact on the evaluation of the

offeror's proposal;

(iii) Correlation of Original and Revised Proposals.

Changes in the revised proposals must be identified and traced back to the latest previous offer especially in regard to the cost proposal;

(iv) Exceptions to Government Requirements. Exceptions

taken to the Government's requirements in the proposal revision may result in a negative evaluation;

(v) Written Submittals. Only the information submitted

in writing will be evaluated and considered in making the source selection; and

(vi) End of Negotiations and Discussions. Upon request

for proposal revisions, further revisions prior to award are not contemplated.

(2) Reopening of Discussions Final Revisions.

Contracting officers shall not reopen negotiations or discussions after receipt of offeror's final revisions except in extremely rare circumstances. This course of action must be fully justified in writing,

CH-1

24

Enclosure (18) to COMDTINST M4200.19F

include written coordination with legal counsel and be approved by the SSA. However, in situations where another revision is required for administrative reasons rather than lack of adequate information from the offerors, the contracting officer may request revisions from all offerors in the competitive range without SSA approval if the SEB members unanimously concur. Otherwise, SSA approval must be obtained.

(m) Award.

(1) SEB Report Preparation.

Upon completion of evaluations, and negotiations or discussions (if required), the SEB shall prepare a final SEB written report of its findings, signed by the Chairperson and all members of the SEB. The report shall contain all information which will enable the SSA to make a source(s) selection decision. The report should clearly highlight any

exceptions an offeror may have taken to the Government's requirements. The objective of the report is to present an evaluation of each proposal in the competitive range against solicitation requirements based on established evaluation criteria. The report shall include, as attachments, all key documents pertaining to the procurement (including, at the least, the SP, Competitive Range Determination, negotiation memoranda, and evaluation team reports). Repetition of the content of attached documents in the final SEB report is not intended or required (but see CGAP Subchapter 1215.406-170). The attached documents shall form the basis of the final SEB report and should be referenced rather than repeated. The report itself shall contain, as a minimum:

(i) Executive Summary. An Executive Summary, which includes:

(A) the nature of the supplies and/or services to be procured;

(B) background information, including a brief chronology of the procurement;

(C) overview of evaluation criteria, weights, and measuring methodology;

(D) summary of preliminary and final findings,

25

CH-1

Enclosure (18) to COMDTINST M4200.19F

including major strengths and weaknesses of the offerors as compared by offeror to the evaluation criteria; and

(E) any items of special interest.

(ii) Introduction. Information included in this section consists of the following:

(A) authority for the source selection action;

(B) data pertaining to the SP, its approval, etc.;

(C) basis for award and evaluation criteria (i.e., Section M);

(D) composition of the SEB identified by functional specialties and by organization;

(E) discussion of the requirements set forth in the solicitation, including salient points and the number of sources to whom the solicitation was provided; and

(F) identification of the offerors and major subcontractors who responded and those in the competitive range.

(iii) Description of proposals. This section contains a brief summary description of the proposals submitted by each offeror within the competitive range. No judgments or comparisons as to the quality, rating, or ranking of proposals will appear in this section.

(iv) Analysis of proposals. This section contains an analysis of the proposals within the competitive range by identifying strengths, weaknesses, and deficiencies (by evaluation criteria other than cost). For each area, a list of the items evaluated should be discussed, first individually and then comparatively with respect to the proposal as a whole. The major strengths, weaknesses, and deficiencies should be included for each proposal. If a strength, weakness, or deficiency appears in one proposal and is noteworthy, an analysis of the same area in

CH-1

26

Enclosure (18) to COMDTINST M4200.19F

all proposals should be included. A matrix comparing the significant evaluation factors and subfactors is to be included to aid the SSA in making the selection decision.

To the extent that the details of this information are clearly presented and summarized in the evaluation team reports, repetition of the detailed information in this section of the Final SEB report is not necessary.

(v) Cost. The reasonableness, realism, and completeness of each offeror's cost proposal should be fully explained. This section normally includes data pertaining to cost or price analysis, the independent Government estimate, total costs to the Government, most probable cost, impact of technical uncertainty on cost or price, life cycle cost, and other appropriate cost considerations. Discuss the impact

of all significant cost aspects associated with each proposal within the competitive range, including the confidence that can be placed in the cost or price estimate provided by each offeror taking into account technical contractual risks and schedule considerations.

To the extent that the details of this information are clearly presented and summarized in the evaluation team reports, repetition of the detailed information in this section of the Final SEB report is not necessary. This section would contain a summary of the results of the evaluation and reference the applicable pages/ paragraphs of the evaluation team reports.

(vi) Overall assessment of Past performance. If this factor is evaluated, provide an integrated analysis of the offeror's past performance history in accordance with the evaluation criteria in the RFP and SP.

(vii) Contractual considerations. Discuss significant contractual arrangements with each offeror in the competitive range and any significant differences between offerors. List any exceptions taken by offerors to the Government's stated requirements.

(viii) SEB findings. Provide a comparative analysis, expressed in brief statements, of the issues considered by the SEB to be significant to the decision. If requested by the SSA, a recommendation will be included.

Enclosure (18) to COMDTINST M4200.19F

(ix) Signature page. Chairperson(s) and members provide a final page bearing the signature of the Chairperson(s) and members of the SEB.

(2) Oral Presentations to the SSA.

The SEB shall, if so requested, make an accompanying oral presentation of the final SEB report which conveys concisely and accurately the results of the SEB deliberations to the SSA (if appropriate). Access to the report and attendance at the oral presentation is limited to the individuals identified in the SP.

(3) SSA Decision.

The SSA shall select the contractor(s) for award and document the basis for award and his/her decision. The approved selection decision will be transmitted to the SEB Chairperson.

(n) Offeror Debriefings.

The basic purpose of a debriefing is to furnish information that should permit the offeror to submit a better proposal in the future. In addition to post-award debriefings, offerors excluded from the competitive range or otherwise excluded from competition before award may request a debriefing before award is made. See FAR 15.505 and 15.506 for procedures and timing of debriefings before and after award.

CH-1

28

Enclosure (19) to COMDTINST M4200.19F

PRENEGOTIATION MEMORANDUM (PM)
(For acquisitions over \$100,000)

PURPOSE OF THIS INSTRUCTION

The Prenegotiation Memorandum is the documentation of the Government's initial negotiating position. It is imperative that the contracting officer conduct a thorough analysis of each proposal and establish the Government's position before any negotiations or discussions take place. The Prenegotiation Memorandum (PM) will allow the contracting officer to organize the analysis into logical sections and will provide a road map to be followed while conducting negotiations and discussions. The scope and depth of the contracting officer's analysis of the proposal should be commensurate with the dollar value, importance, and complexity of the pricing action (FAR 15.406-1(b)). For the remainder of this instruction, "negotiations" will be understood to mean "negotiations and/or discussions."

I. INTRODUCTION. Provide a brief description of the supply or service being acquired. Include the procurement request number, the name of the contracting office processing the request, the solicitation number, and, if applicable, the modification and contract number.

II. COMPLIANCES. Address FAR compliance requirements completed before negotiations using the list of compliances found in Attachment 1 as a guide. When prenegotiation compliance requirements are completed, this section shall constitute Section II of the PM. A copy shall be made for

the Price Negotiation Memorandum (PNM) for the purpose of completing the compliances made after negotiations. This will result in the PNM containing a record of all compliances made for the acquisition.

III. CONTRACT TYPE. Discuss the contract type anticipated to be used and justify why it was selected. Discuss technical, schedule and cost risk involved in the contract type selected.

IV. SUMMARY OF KEY DOCUMENTS. Identify the title and number (if applicable) and date of each key document. Include, as applicable, the following in the contract file:

A. Prospective contractor's proposal.

Enclosure (19) to COMDTINST M4200.19F

B. Audit report.

C. Technical advisory report.

D. Pre-award survey.

F. Other documents relevant to the particular procurement.

V. PROCUREMENT SITUATION. Identify and explain the following items if applicable to the contract action:

A. Explain the type of action to be negotiated (new procurement, modification to an existing contract such as a delivery order, definitization of a letter contract, change order, etc.).

B. Specify the delivery schedule/period of performance.

C. State whether any previous buys of the same or similar items exist. If so, identify: when, how many, any scheduled production rate, contract type and total price.

D. Identify any Government property/facilities to be provided under the acquisition and the estimated dollar value for the Government property/facilities.

E. Describe any unique features of the procurement action (e.g., should-cost, design-to-cost, life cycle cost, special provisions or agreements impacting cost, or outside influences such as funding

limitations and procurement priority).

F. Describe any protests received and their disposition, and any potential protests or issues which could impact the proposed award.

VI. OTHER INFORMATION FOR COMPETITIVE ACQUISITIONS. For competitive acquisitions, discuss the following: (The responses to the following elements may be made by cross referencing or restating the applicable paragraphs of the selection plan, evaluation team reports, and/or competitive range determination.)

Enclosure (19) to COMDTINST M4200.19F

A. Evaluation criteria. List the evaluation criteria and discuss how each proposal was evaluated against those criteria.

B. Evaluation results. Explain the results of the technical and cost evaluation, including why some offerors do not have a reasonable chance of being selected for award (identify the date the offeror was notified).

C. Competitive range determination. Explain the basis for determining offerors within and outside the competitive range, and the areas for any discussions with offerors determined to be within the competitive range.

VII. EVALUATION OF OFFERS. Proposal analysis and evaluation may be accomplished by use of Price Analysis, Cost Analysis, Cost Realism Analysis or some combination of the three. A discussion of the Government's prenegotiation objectives and support for how the objectives were derived using one or more of the above techniques shall be included. This support shall contain a discussion of how the independent Government estimate, any price history or any other pertinent data was used to derive the Government's prenegotiation position, and if the supporting data differs from the prenegotiation objective, it shall also include an explanation for these variances. A table displaying the Government's prenegotiation position and the prospective contractor(s) price(s) shall be included.

A. PRICE ANALYSIS. When price analysis is used to ensure a fair and reasonable price, the techniques found at FAR 15.404-1(b) may be used to determine the prenegotiation objective. When adequate price competition exists, the contracting officer generally will not require any

additional information to determine the reasonableness of price. If additional information is necessary, the contracting officer shall, to the maximum extent possible, obtain it from sources other than the offeror such as by checking other recently awarded contracts for the same or similar items.

B. COST ANALYSIS. When cost analysis is used to determine the prenegotiation objective and has been justified in accordance with FAR 15.4, use the format shown below and address the content of each heading/subheading:

1. Introductory Summary. Provide a top level summary comparing each offeror's proposal, any field pricing report or audit recommendation, and the Government's prenegotiation objective. Add any other characteristics of the pricing arrangement such as: incentive share, minimum/maximum fee, ceiling

Enclosure (19) to COMDTINST M4200.19F

price and percentage, option prices. See Table 1, for an example of this summary format.

2. Particulars. Identify the date, place(s), and participants (including the name, position, and organization) of any factfinding session(s).

3. Special Requirements. If cost or pricing data has been requested, this section should discuss why an exception was not applicable (FAR 15.403-1(b)) and why a waiver was not considered (FAR 15.403-1(c)(4)). Discuss any special circumstances anticipated under the acquisition, including precontract costs, Government property, contract options, protests received or anticipated, etc.

4. Detailed Cost Analysis.

a. Cost Element Summary. Provide a summary comparison in columnar format of the respective positions of each offeror's proposal, any field pricing report recommendations, and the Government's prenegotiation objective. This comparison shall list all cost elements as follows:

(1) Cost elements normally include: direct materials/subcontracts, direct labor, overhead, other direct costs (e.g., travel, packaging/packing), general and administrative, profit/fee, and

facilities capital cost of money. See Table 2, for an example of this format.

(2) For competitive acquisitions, a cost element breakdown is required only for those offerors determined to be within the competitive range.

b. Explanation of Detailed Cost Analysis. Discuss how the amount for each cost element was derived, including:

(1) A discussion of the costs which make up each total cost element amount as stated in subparagraph a., above. These costs, when added together, shall be shown to add up to that cost element amount.

(2) A discussion on how the field pricing report/audit, in-house estimate, historical data, actuals, learning curves, trends, and other information, were used in deriving the cost element amount. (State or attach any computations.)

Enclosure (19) to COMDTINST M4200.19F

(3) A structured approach for determining the profit or fee objective when making noncompetitive contract awards over \$100,000 totaling \$50 million or more a year. See TAM 1215.404-4 and Appendix A.

(4) For incentive/award fee pricing structures, a discussion of how the share ratio under/over target, minimum/maximum fee, ceilings were derived.

(5) If any of the prenegotiation objectives differ from the field pricing report, audit, or other specialist recommendations, state the reasons for any pertinent variances.

(6) If the acquisition is definitizing a price based in part upon actual costs (e.g., letter contract, unpriced change orders), include a separate discussion and support for the actual amounts and the estimates-to-complete.

C. Cost Realism Analysis. This proposal analysis technique is done by estimating whether the proposed cost elements are realistic for the work to be performed. It shall be performed on all cost-reimbursement contracts and may, in unique situations, be used on certain fixed price contracts to determine probable cost of performance. Probable cost of performance is determined by adjusting each offeror's proposed cost (and

fee when appropriate) to bring the cost elements to realistic levels based on the Government's best estimate of cost. It is often used as part of cost analysis. Use tables such as those listed above under Cost Analysis as applicable. See FAR 15.404-1(d) for additional guidance.

D. Other Requirements. Discuss any special features/requirements (and any related price impact) of the acquisition (e.g., any deviations, special clauses or conditions). In addition, for award fee contracts, discuss the award fee structure, identify who is on the performance evaluation board, and who is the fee determining official.

E. Signatures. Review levels shall be in consonance with TAM 1204.70 and CGAP 1204.70. The following shall be inserted and completed at the end of each PM:

The following signatures represent agreement with the prenegotiation objectives and the commencement of negotiations.

Enclosure (19) to COMDTINST M4200.19F

Prepared by: _____ Date: _____
(Signature and Title)

Reviewed by: _____ Date: _____

(Signature and Title if different than the approval authority)

Approved by: _____ Date: _____

(Signature and Title)

Enclosure (19) to COMDTINST M4200.19F

Attachment 1

INSTRUCTIONS FOR COMPLETING THE LIST OF COMPLIANCES

The List of Compliances on the following pages is not all inclusive nor in chronological order. The unique characteristics of an acquisition may

require additional items to be addressed such as the use of precontract costs or actions taken as a result of Congressional interest or other high level official interest. As a minimum, respond to the requirements on the list for each offeror where they are applicable.

The key shown below applies to the List of Compliances:

1 document(s) must be attached to memorandum.

* Acquisition Plan or Streamlined Acquisition Plan, whichever is applicable

Unless otherwise specified, if response to a requirement is "no," clear and convincing support is required. Insert paragraph number of the memorandum where the support is found.

Enclosure (19) to COMDTINST M4200.19F

Attachment 1

LIST OF COMPLIANCES

REQUIREMENT	YES	NO	N/A	REFERENCE
Justification for Other than Full and Open Competition was approved. ^{^1}				
Determination and Finding(s) was/were approved. ^{^1}				
Support for using a competitive proposal rather than sealed bidding was completed.				
Synopsis was released to the CBD.				
AP*/update (circle one) was approved on (date)_____				
Acquisition is in conformity with the approved AP *				
Procurement Forecast/update (circle one) was approved on (date)_____.				

Preaward clearances for contracts and subcontracts have been received/requested (circle one).

Request for an audit (other than a field pricing report) has been received/requested (circle one).

Offeror(s) has submitted Representations, Certifications, and Other Statements of Offerors.

Annual Representations, Certifications, and Other Statements of Offerors dated _____ were submitted.

Cost and pricing data received

Exception to cost and pricing data. (If yes, indicate which exception was used.)					
Waiver of requirement for cost and pricing data requested by offeror/received 1					

Make-or-Buy Program Plan has been submitted and agreed upon.

Enclosure (19) to COMDTINST M4200.19F

LIST OF COMPLIANCES (CONT'D)

Technical evaluation was received.						
Determination of the competitive range was made by the contracting officer on _____ (date).						
Certified Cost and Pricing Data has been submitted by the prospective contractor 1						
Other compliances:						

Enclosure (19) to COMDTINST M4200.19F

TABLE 1 TOP LEVEL COST ELEMENT SUMMAR

(Example only)

INTRODUCTORY SUMMARY.

	ABC Co.	Field Pricing Report	Prenegotiation Objectives
Estimated Cost (minus \$1,061,592.00 Cost of Money (COM))	\$1,113,756.00	\$1,059,672.00	
Fee/Profit	\$ 122,546.00 (11.0%)	\$ 52,984.00 (5.0%)	\$ 61,184.00 (5.8%)
COM	\$ 37,100.00 (3.3%)	\$ 32,980.00 (3.1%)	\$ 33,994.00 (3.2%)
Total Amount	\$1,273,402.00	\$1,145,636.00	\$1,156,770.00

Enclosure (19) to COMDTINST M4200.19F

TABLE 2 COST ELEMENT SUMMARY

(Example Only)

DETAILED COST ANALYSIS.
Cost Element Summary.

	ABC Co.	Field Pricing Report	Prenegotiation Objectives
Direct Material			
Purch. Parts	\$ 82,805	\$ 80,680	\$ 76,509
Subcontract	\$ 68,060	\$ 67,200	\$ 67,200
Total Material	\$ 150,865	\$ 147,880	\$ 143,709
Direct Labor			
Engineering	\$ 339,896	\$ 349,451	\$ 334,210
Manufacturing	\$ 26,427	\$ 26,304	\$ 26,304
Total Labor	\$ 366,323	\$ 375,755	\$ 360,514
Overhead			
Material	\$ 13,500 (8.9%)	\$ 11,327 (7.7%)	\$ 11,777 (8.2%)
Engineering	\$ 414,700 (122%)	\$ 381,736 (109%)	\$ 395,548 (118%)
Manufacturing	\$ 35,100 (133%)	\$ 34,465 (131%)	\$ 34,465 (131%)
Total Overhead	\$ 463,300	\$ 427,528	\$ 441,790
Other Direct Costs	\$ 10,638	\$ 2,008	\$ 6,825
Subtotal	\$ 991,126	\$ 953,171	\$ 952,838
G & A	\$ 122,630 (12.4%)	\$ 106,501 (11.2%)	\$ 108,754 (11.4%)
Subtotal Est. Cost	\$ 1,113,756	\$ 1,059,672	\$ 1,061,592

Fee	\$ 122,546 (11.0%)	\$ 52,984 (5.0%)	\$ 61,184 (5.8%)
Total Est. Cost	\$ 1,236,302	\$ 1,112,656	\$ 1,122,766
COM	\$ 37,100 (3.3%)	\$ 32,980 (3.1%)	\$ 33,994 (3.2%)
Total Amount	\$ 1,273,402	\$ 1,145,636	\$ 1,156,770

Enclosure (20) to COMDTINST M4200.19F

PRICE NEGOTIATION MEMORANDUM (PNM)
(For acquisitions over \$100,000)

PURPOSE OF THIS INSTRUCTION

The Price Negotiation Memorandum (PNM) is the documentation of the principal elements of the negotiated agreement between the Government and the offeror. The PNM must be consistent with the Prenegotiation Memorandum (PM); each questioned element and each open issue indicated in the PM should be addressed and brought to closure in the PNM.

I. INTRODUCTION. Identify the action being discussed and the purpose of the negotiation. If the description of the supply or service, the procurement request number, the contracting office, and the solicitation or other identifying number have not changed since the PM was approved, reference Section I of the PM. Otherwise, provide the updated information.

II. COMPLIANCES. Address FAR compliance requirements completed after negotiations. A copy of the updated compliance listing completed in the PM (attachment 1) shall be inserted in this section.

III. CONTRACT TYPE. State what contract type(s) will be used and justify the type selected. Discuss technical, schedule and cost risk involved in the contract type selected. (If unchanged from the PM, a cross reference to or a restatement of Section III of the PM may be made.)

IV. SUMMARY OF KEY DOCUMENTS. Identify the title/number and date of each key document, as applicable.

- A. Prenegotiation Memorandum.
- B. Each Prospective Contractor's final proposal revision.
- C. Other.

V. PROCUREMENT SITUATION.

A. Discuss whether any changes in the schedule/performance period resulted from the negotiation. If a difference resulted, discuss why.

Enclosure (20) to COMDTINST M4200.19F

B. Identify any changes from the PM pertaining to Government property/facilities provided under the acquisition and the estimated dollar value for the Government property/facilities as a result of the change.

C. Describe any protests received after PM approval, their disposition, and any potential protests or issues which could impact the proposed award. In addition, update PM information pertaining to any protests received before PM approval.

VI. OTHER INFORMATION FOR COMPETITIVE ACQUISITIONS.

For competitive acquisitions, PNMs shall discuss:

- A. The events leading to the request of any final proposal revisions
- B. The technical and cost/price evaluation of the final proposal revision for each offeror.
- C. The final technical and cost/price evaluation results by offeror.
- D. The rationale supporting the source selection decision.

VII. EVALUATION OF OFFER(S). Discuss generally the conduct of any negotiations. Indicate the time and place of negotiations with each offeror and list the name, position, and organization of each person representing the contractor and the Government.

- A. PRICE ANALYSIS. This section shall discuss any changes from the

prenegotiation position as described in the PM and the final negotiated agreement. Changes shall be accompanied by supporting data which explains the rationale for the final position.

B. COST ANALYSIS. When cost analysis was used to determine the renegotiation objective, use the format shown below and address the content of each heading/subheading. Each offeror should be addressed separately. (If unchanged from the PM, a restatement of or cross reference to Section VII of the PM may be made.)

Enclosure (20) to COMDTINST M4200.19F

1. Introductory Summary. Provide a top level summary comparing each offeror's original proposal, the Government's renegotiation objective, and the final negotiated agreement by cost, profit/fee (percentage and dollar) and total. Add any other characteristics of the pricing arrangement such as: incentive share, minimum/maximum fee, ceiling price and percentage, option prices. See Table 1 for an example of this format.

2. Detailed Cost Analysis

a. Cost Element Summary. Provide a summary comparison in columnar format of the respective positions of each offeror's original proposal, the Government's renegotiation objective, and the final negotiated agreement. This comparison shall list all cost elements.

(1) Cost elements normally include: direct materials/subcontracts, direct labor, overhead, other direct costs (e.g., travel, packaging/packing), general and administrative, profit/fee, and facilities capital cost of money. See Table 2, for an example of this format.

(2) For competitive acquisitions, a cost element breakdown is required only for those offerors determined to be in the competitive range.

b. Explanation of Detailed Cost Analysis. Address details of the cost analysis where applicable. Explain changes subsequent to negotiations and provide rationale for the differences between the Government's renegotiation objectives and the final negotiated agreement as follows:

(1) Discuss the extent to which certified cost or

pricing data was relied upon and used in the negotiation.

(2) Discuss the extent to which inaccurate, incomplete, or noncurrent cost or pricing data was submitted; the action taken by the contracting officer and the offeror as a result; and the effect of the defective data on the price negotiated.

(3) Discuss the availability, adequacy, and use of subcontractor cost and pricing data.

Enclosure (20) to COMDTINST M4200.19F

(4) Discuss the extent and adequacy of the contractor's review of subcontract proposals.

(5) Discuss how the final cost element amounts were derived and how the negotiated amount is considered fair and reasonable. The following items shall be addressed:

(a) The most significant facts or considerations controlling the establishment of the prenegotiation price objective and the negotiated amounts.

(b) Any considerations given to information contained in in-house technical evaluations, field pricing/audit reports, or other data not provided by the offeror which has changed or were not considered in the PM.

(c) Any additional data or updated information provided by the offeror during negotiations/factfinding and the consideration given to it.

(d) If the DOT F 4220.32 Weighted Guidelines Profit/Fee Objective, was used in supporting the negotiated profit/fee amount, the rationale supporting all assigned weighting; the total profit/fee negotiated; and the rationale supporting the minimum/maximum fee, if applicable.

(e) If the DOT F 4220.34 Contract Facilities Capital and Cost of Money, was used in supporting the final profit/fee amount, the rationale supporting all factors used.

(f) If a final settlement of incentive/award fee, explain any differences between targets, including adjustments and final

costs.

C. OTHER REQUIREMENTS. If economic adjustment clauses or other special requirements are included which were not discussed in the PM, address the details and rationale for use. Include a discussion on the disposition of residual inventory, special tooling, and special test equipment.

Enclosure (20) to COMDTINST M4200.19F

D. SIGNATURES. Review levels shall be in consonance with TAM 1204.70 and CGAP 1204.70. The following shall be inserted and completed at the end of each PNM:

The following signatures represent: (1) agreement with the information contained herein; and (2) the determination that the final negotiated price is fair and reasonable.

Prepared by: _____ Date:

Reviewed by: _____ Date:

(Signature and Title if different than the approval authority)

Approved by: _____ Date:

(Signature and Title)

Enclosure (20) to COMDTINST M4200.19F

TABLE 1 TOP LEVEL COST ELEMENT SUMMARY
(Example only)

INTRODUCTORY SUMMARY.

	ABC Co.	Prenegotiation Objectives	Negotiated
Estimated Cost (minus Cost of Money (COM))	\$1,113,756	\$1,061,592	\$1,102,476
Fee/Profit	\$ 122,546 (11.0%)	\$ 61,184 (5.8%)	\$ 82,553 (7.5%)
COM	\$ 37,100 (3.3%)	\$ 33,994 (3.2%)	\$ 34,143 (3.1%)
Total Amount	\$1,273,402	\$1,156,770	\$1,219,172

Enclosure (20) to COMDTINST M4200.19F

TABLE 2 COST ELEMENT SUMMARY
(Example only)

DETAILED COST ANALYSIS
Cost element summary.

	Original ABC Co.	Prenegotiation Objectives	Final Negotiated
Direct Material			
Purch. Parts	\$ 82,805	\$ 76,509	\$ 84,780
Subcontract	\$ 68,060	\$ 67,200	\$ 67,200
Total Material	\$ 150,865	\$ 143,709	\$ 151,980
Direct Labor			
Engineer	\$ 339,896	\$ 334,210	\$ 342,869
Manufacturing	\$ 26,427	\$ 26,304	\$ 26,506

Total Labor	\$ 366,323	\$ 360,514	\$ 369,375
Overhead			
Material	\$ 13,500 (8.9%)	\$ 11,777 (8.2%)	\$ 12,267 (8.1%)
Engineering	\$ 414,700 (122%)	\$ 395,548 (118%)	\$ 408,013 (119%)
Manufacturing	\$ 35,100 (133%)	\$ 34,465 (131%)	\$ 34,060 (128%)
Total Overhead	\$ 463,300	\$ 441,790	\$ 454,340
Other Direct Costs	\$ 10,638	\$ 6,825	\$ 6,825
Subtotal	\$ 991,126	\$ 952,838	\$ 982,520
G & A	\$ 122,630 (12.4%)	\$ 108,754 (11.4%)	\$ 119,956 (12.2%)
Subtotal Cost	\$ 1,113,756	\$ 1,061,592	\$ 1,102,476
Fee	\$ 122,546 (11.0%)	\$ 61,184 (5.8%)	\$ 82,553 (7.3%)
Total Cost	\$ 1,236,302	\$ 1,122,766	\$ 1,185,029
COM	\$ 37,100 (3.3%)	\$ 33,994 (3.2%)	\$ 34,143 (3.1%)
TOTAL AMOUNT	\$ 1,273,402	\$ 1,156,770	\$ 1,219,172

Enclosure (21) to COMDTINST M4200.19F

PRE/PRICE NEGOTIATION MEMORANDUM
(For actions of \$100,000 or less)

I. INTRODUCTION. Identify the action being discussed; explain why negotiations were necessary; provide a description of the acquisition including procurement request, the contracting office processing the

request, the solicitation/order number, and, if applicable, the modification and contract number.

II. APPROVAL REQUIREMENTS. Include a statement indicating the date on which approval was received from the contracting officer to negotiate with the contractor based on the Government's established prenegotiation position of (fill in total amount).

III. ATTENDEES AT NEGOTIATION. List the name, position, and organization of each person representing the contractor and the Government in the negotiation and the dates on which meeting occurred.

IV. COMPLIANCES. Address any FAR compliance requirements. (The List of Attachments found at Attachment 1 to the Prenegotiation Memorandum may be used as applicable).

V. PRICE ANALYSIS. Provide a summary comparison of the respective positions of each offeror's proposal and include any pricing report recommendations. The techniques found at FAR 15.404-1(b) may be used to determine the prenegotiation position. Provide an explanation of any changes from the prenegotiation position and the final negotiated agreement. Changes shall be accompanied by supporting data which explain the rationale for the final negotiated agreement.

VI. COST ANALYSIS. When cost analysis is used, provide a summary comparison by major cost element of the respective positions of each offeror's proposal, any field pricing report/audit recommendations, the prenegotiation objective, and the negotiated outcome. Provide an explanation of any changes between the prenegotiation position and the final negotiated agreement. Changes shall be accompanied by supporting data which explain the rationale for the change. In addition, discuss the basis for determining the profit or fee. See CGAP 1214.404-4 for guidance on profit or fee objectives.

Enclosure (21) to COMDTINST M4200.19F

VII. SIGNATURES. The following signatures represent: (1) agreement with the information contained herein; and (2) that the final negotiated price is fair and reasonable.

Prepared by: _____ Date:

(Signature and Title)

Approved by: _____ Date: _____

(Signature and Title)

Enclosure (22) to COMDTINST M4200.19F

SOURCE SELECTION PROCEDURES FOR COMPETITIVE ACQUISITIONS VALUED AT LESS THAN \$20 MILLION

General

The Federal Acquisition Regulation (FAR) Part 15 Contracting by Negotiation prescribes policies and procedures governing competitive as well as noncompetitive negotiated acquisitions. This guide addresses competitive negotiated acquisitions only. For ease of reading, it is presented in sections which follow the same topics as they appear in Part 15. That is, Section 1 Source Selection Processes and Techniques; corresponds to FAR Part 15.1; Section 2 Solicitation and Receipt of Proposals and Information; corresponds to FAR Part 15.2; and Section 3 Source Selection, corresponds to FAR Part 15.3. FAR Parts 15.4 through 15.6 are not addressed in this guide.

This guidance applies to actions under \$20 Million which are not subject to structured source selection in accordance with Coast Guard Acquisition Procedures (CGAP) subchapter 1215.303-90. Also, it does not apply to sealed bid procurements (refer to FAR Part 14). The contracting officer is normally the source selection authority for actions under \$20 Million.

When in doubt concerning the interpretation of source selection information or procedures either contain herein or elsewhere, the contracting officer should seek additional clarification from Commandant (G-CPM) and/or legal counsel as appropriate.

This document is designed for use by Coast Guard acquisition personnel; however, it may also benefit requirements personnel regarding the specific processes which must be considered and addressed during source selection. By informing and educating our customers, we ultimately facilitate the procurement process and issue higher quality contracts. It is also important to note that planning for source selection should begin early on in the acquisition process and should always include the input of requirements personnel in order to establish a successful acquisition strategy.

Enclosure (22) to COMDTINST M4200.19F

Section 1 Source Selection Processes and Techniques

a. Methods of Award. There are two basic methods which may be employed to solicit, evaluate and select sources for award. They are tradeoff process (previously known as best value) and lowest price technically acceptable.

(1) Lowest price technically acceptable (lowest price). This method is used primarily for firm fixed price acquisitions involving adequately detailed specifications for which alternate technical approaches/proposals are unlikely.

(i) In this method, technical proposals are evaluated to determine if an offeror satisfies an identifiable minimum technical criteria. Technical criteria include all non-price factors such as past performance, proposed key personnel, management approach, etc. For example, you may wish to issue a solicitation to repair certain engines by replacing or repairing worn out parts and making the engines work again exactly as they did when they were new. You will not expect more or less than that. In this case the offeror who agrees to do the work as specified and gives you the lowest price will win the award. In other words, once technical acceptability has been established, award is then based solely upon lowest offered price.

(ii) When evaluating past performance, if the contracting officer determines that a small business' past performance is not acceptable, the matter shall be referred to the Small Business Administration for a Certificate of Competency (see FAR 15.101-2(b)(1)). When using the trade-off process, see (2) (ii) below.

(iii) Although it seems simple, you must be aware of some stumbling blocks when using the lowest price method. The criteria for determining technical acceptability must be identifiable and narrowly and explicitly defined in the solicitation. Requirements personnel must not attempt to evaluate or differentiate among offerors on the basis of technical superiority. They may only evaluate the offers to

determine if they do or do not meet the narrowly, explicitly

CH-1

2

Enclosure (22) to COMDTINST M4200.19F

defined requirement, which is not to say that a proposal may not exceed the stated minimum requirements. Proposals are not scored using this method. In other words, you may not use the tradeoff process in any form when using the lowest price method.

(2) Tradeoff process. This method is employed when the Government seeks to determine which offer represents the best value by giving consideration to performance and other factors as a trade-off to cost or price. The emphasis during this evaluation process is on higher overall quality rather than on a minimally acceptable technical standard as in the lowest price method. Unlike in lowest price, the technical evaluation does discriminate among offers to determine which is "good", "better", or "best". Remember that proposals must be initially evaluated against the requirement using the criteria set out in Section M of the solicitation, and not against each other. Once proposals are evaluated in this way, the Contracting Officer must make a comparative assessment of the proposals against each other to determine which proposal offers the best value to the Government, using the solicitation criteria. Written documentation of the trade-offs that led to the award of the contract is always required. Even if technical criteria together are more important than cost, you must still justify why the highest technical/highest price proposal is worth the price, or conversely, why it is not worth the added expense. Situations in which you may want to consider trade-offs are: when the requirement is difficult to define or is complex; when it is likely you will find measurable differences in the design, performance, quality, reliability or supportability in offerors' proposals; when it is likely you will be willing to pay extra for capability, skills, reduced risk, or other non-cost factors. A scenario which illustrates the foregoing is as follows: You wish to hire a systems analysis team to renovate all your software for Year 2000 compliance. You may be able to think of at least two ways to accomplish this. An offeror may propose throwing out all the software in your system and buying new software that is free of Year 2000 problems. Another offeror may propose a way to modify your present software to remove the glitches

3

CH-1

Enclosure (22) to COMDTINST M4200.19F

you are concerned about. Your intuition tells you these approaches will not be priced the same and are not equally desirable. Also there may be other offerors who will propose solutions somewhere between these two extremes. This acquisition is a good candidate for the tradeoff process.

(i) As with the previous method there are stumbling blocks of which you must be aware. The relative importance of price or cost may vary greatly with this method. No matter how important the technical/performance consideration may be, cost or price must be considered. Further, the importance of all other factors, when combined, must be stated in terms of more, less, or equal in weight to cost or price. In the tradeoff process, evaluators must determine which offer proposes to afford the Government the overall best buy. Determining the merits of each offeror is necessarily subjective in nature. Therefore you must be very careful to clearly state all evaluation factors and significant subfactors in the solicitation, as well as their relative importance.

(ii) Remember that if the contracting officer determines a small business to be non-responsible, the matter shall only be referred to the Small Business Administration for a Certificate of Competency determination if and when that offeror is determined to be the apparent successful offeror. See FAR 19.601(c).

(iii) Do not make the mistake of thinking that the tradeoff method means you must award to the "best" technical proposal regardless of cost. As indicated above, the contracting officer must determine that any cost or price premiums associated with the "best" offer are worth the technical superiority which may be gained during the performance of the acquisition. In the above example, the offer proposing all new software may be the most attractive for various reasons. If however, this solution is three or four times more expensive than other "good" technically viable offers, then it may be determined, based on the evaluation criteria in the solicitation, that this is not the overall best buy.

Enclosure (22) to COMDTINST M4200.19F

b. Oral presentations. The use of oral presentations may be appropriate to streamline and facilitate the source selection process by providing for dialogue among the parties. It is not a source selection method in the sense of lowest cost or tradeoffs, but rather a procedure to substitute for or augment written information. It can be used in whole or in part to substitute for a written proposal and/or can be used during discussions after the competitive range has been established.

(1) Although the FAR recognizes oral presentations as a legitimate process, Coast Guard contracting offices should use this process with great care. Oral presentations are most suited to situations where the offeror's qualifications to perform the work, or the offeror's understanding of the requirement are the prime evaluation criteria. When used effectively, oral presentations can reduce procurement lead time and reduce costs, both for the Government and for the offeror.

(2) When using oral presentations to any degree, it is crucial to remember that all the same rules apply as when proposals are written, and these rules must be conveyed to the offerors. That is, instructions to offerors must clearly state (among other things) what topics must be addressed and the technical or other factors that must be covered.

(3) The FAR does not offer a clear distinction between information that constitutes the offer and information that addresses an offeror's capability (the proposal). This could lead to misunderstanding on the part of offerors as to the purpose of any oral presentation. The contracting officer needs to be very explicit about why the oral presentation is taking place, what the Government's expectations are during such an exchange, and how the information gained in this manner will be used.

(4) For example, suppose your RFP indicates you intend to award without discussions. The RFP closing date arrives and several written offers are received. The evaluators complete their initial evaluation

Enclosure (22) to COMDTINST M4200.19F

of the written offers, and the contracting officer sets the

competitive range. Those offerors in the competitive range are then invited to make oral presentations of their capabilities at a prearranged date and time. The oral presentations are then evaluated for likelihood that the offeror will be successful in his approach. The successful offeror is selected and award is made. In this scenario, nothing in the oral presentation becomes part of the written offer. Communication between the government and the offeror during oral presentations is not considered to be discussions unless the offeror's answer is something he will be held accountable for in the contract later on. In other words, you may ask any question as long as you do not intend to incorporate the answer in the contract. If an offeror presents an innovative or novel idea during the oral presentation that you feel must be incorporated into the written offer, then you must abandon award without discussions and convert to award with discussions. In this case discussions must be held with all offerors in the competitive range.

(5) If at all possible, oral presentations should be recorded on videotape. Transcriptions, notes, or audiotape are not as effective if documentation is needed later to defend a protest. Decide what equipment will be used and test it ahead of time. Be sure to record the start and finish of each offeror's presentation so there is no question of when it began and when it ended.

(6) When scheduling oral presentations for several offerors, try not to schedule more than one per day, and in no event more than two. This removes the risk of having the presentation periods run too close together, and also helps keep the different presentations separate in everyone's mind. It is preferable to evaluate the oral presentation immediately after it is over before going on to the next one.

Section 2 Solicitation and Receipt of Proposals and Information

a. Acquisition Planning. FAR Part 7.1 requires agencies to perform acquisition planning in order to successfully manage the acquisition.

CH-1

6

Enclosure (22) to COMDTINST M4200.19F

Agencies shall perform acquisition planning and conduct market research when acquiring commercial or nondevelopmental items, and when using full and open competition (but see FAR Part 7.102 for a fuller explanation).

Note that market research and market survey are not the same thing. A market survey takes place after developing new requirements documents, while market research takes place before this development. See FAR Part 10.001 for a discussion of market research.

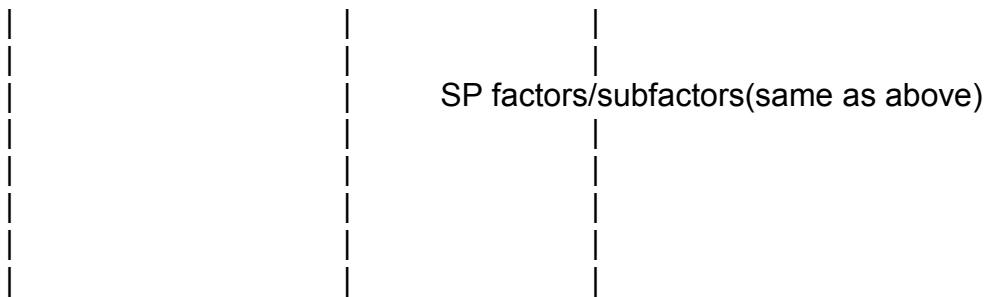
b. Tracking the Requirement. The key to good acquisition planning is to have a clear, logical acquisition strategy and a coordinated, detailed set of source selection procedures for each procurement. The solicitation must accurately and clearly define the Government's requirements and how they are to be satisfied. To this end, the solicitation must clearly state how the resultant award determination shall be made. The solicitation sets forth the evaluation factors that will be considered in making the source selection as well as the relative importance of those factors. However, actual weights (if used) shall not be disclosed in the solicitation. Solicitation Section L, Instructions, conditions, and notices to offerors or respondents, and Section M, Evaluation factors for award, must be consistent in every detail with each other and with the selection plan. For this reason, the solicitation must be prepared concurrently with the development and processing of the selection plan (CGAP enclosure (18) (f) Selection Plan (SP) Preparation may be tailored for acquisitions under \$20 million where there is no Source Evaluation Board (SEB)). There must be a clear and consistent trail from the requirement (Section C) to Sections L and M to the selection plan. See enclosures (1) and (2) for Sections L and M sample language and sample evaluation criteria. Note of course, that if you are acquiring commercial items in accordance with FAR Part 12, the uniform contract format will not apply (See FAR Subpart 12.3). See chart next page for illustration of a crosswalk between and among these documents:

7

CH-1

Enclosure (22) to COMDTINST M4200.19F

Requirements <==> Section L proposal content <==> Section M
factors/subfactors



develop database submit technical proposal <==> tech. approach/feas. of proposed tasks

submit management proposal <==> mgmt. approach/organizational structure

submit cost/price proposal <==> cost/price of effort/reasonableness

past performance questionnaire <==> past perf./ability to meet schedule

CH-1

8

Enclosure (22) to COMDTINST M4200.19F

Section 3 Source Selection

a. Evaluation Criteria. The evaluation criteria form the basis by which each offeror's proposal is to be evaluated. Evaluation criteria and their relative importance should be defined in the early stages of solicitation development and are the responsibility of the Program Manager and the contracting officer. These factors and subfactors should be based on user requirements, acquisition objectives, perceived risks, and market research. All evaluation factors and significant subfactors must be stated in the solicitation and shall not be developed to favor any one offeror over another. Generally, evaluation criteria should not be changed after the issuance of the solicitation unless there are compelling reasons. If such reasons exist, offerors should be notified in writing of any resulting changes. Evaluation criteria should reflect what is most important for successful performance and should be kept to a minimum. Using too many factors and subfactors can dilute the evaluation, resulting in a number of closely rated proposals with little discrimination among competitors.. All factors and significant subfactors for a particular procurement as well as their relative importance, shall be stated in section M of the solicitation. Poorly thought out and written evaluation criteria will almost always result in a poor, if not improper contract award.

b. Evaluation criteria should normally be adjectivally rated rather than numerically scored. For Coast Guard procurements, the rating method shall not be disclosed in the solicitation. Evaluation criteria shall not be numerically scored unless approved by the Source Selection Authority (SSA). For the most part, adjectives, by their nature, are less definitive. Using adjectives helps contracting officers and technical

evaluators to remember that it is not the rating that is important but what the rating describes. In other words the use of numerical scoring may encourage too literal a translation of the meaning behind the numbers. For example, if two offerors both score a "5" on some technical factor, it is easy to assume that they are essentially equal in that area when in fact, that may not be true at all depending on the description of the factor.

Enclosure (22) to COMDTINST M4200.19F

c. Relative Importance. The relative importance of the criteria should reflect the extent to which the offerors' abilities to satisfy or exceed the criteria will impact performance. If weighted, specific weights should be developed jointly by requirements personnel and the contracting officer. The specific weights shall not be disclosed in the RFP; however, care should be taken to avoid the impression of a mathematical evaluation devoid of judgment. Any specified weights are intended to be used solely to determine the ranking of proposals and by the contracting officer as a guideline for assessing the relative merits of proposals. Despite the fact that the development of evaluation criteria is one of the most important tasks in the entire procurement process, often this portion of the solicitation is merely copied from "the last one" or from another procurement which may or may not bear any similarity or relationship to the instant acquisition. This situation can be a fatal flaw in any acquisition. Contracting officers and requirements personnel must pay appropriate attention to the development of evaluation criteria to ensure a prompt and successful contract award.

d. Mandatory Criteria and Information. There are several mandatory requirements which must always be satisfied in competitive, negotiated procurements regardless of which evaluation method will be employed. First, cost or price to the Government must be evaluated in every source selection. Second, the quality of the product or service must be addressed. Third, past performance must be evaluated for acquisitions expected to exceed \$100,000 unless the contracting officer documents the reason past performance is not an appropriate evaluation factor for the acquisition. Fourth, all factors and significant subfactors that will affect contract award and their relative importance must be stated clearly in the solicitation. Fifth, the solicitation must state, at a minimum, whether all evaluation factors other than cost or price, when combined, are: Significantly more important than cost or price; Approximately equal to cost or price; or Significantly less important than cost or price.

(1) Cost or price: In most cases competition is usually enough to establish price reasonableness and submission of cost and pricing data shall not be required. In other words, when adequate competition has been obtained, the competitive nature of the acquisition will serve to

CH-1

10

Enclosure (22) to COMDTINST M4200.19F

determine that the offered price is fair and reasonable.

Occasionally, the contracting officer may determine the need for a cost analysis in order to establish reasonableness or realism.

Otherwise, detailed cost analysis should only be performed when cost or pricing data has been obtained. See FAR 15.403-1 for more information on cost analysis and obtaining cost and pricing data.

(2) Quality: This can be done through consideration of one or more non-cost evaluation factors such as past performance, compliance with the solicitation requirements, technical excellence, management capability, personnel qualifications, and prior experience.

(3) Past performance: Considers the quality of previous work accomplished by the offerors. Past performance may also be a subfactor under a technical factor. The contracting officer and requirements personnel must be extremely careful in making the judgments and conclusions required under this factor, but must not hesitate to assess relevant experience and past performance, positively or negatively, when the information received would reasonably support such an assessment.

(i) When used as a factor, past performance addresses evaluation of overall relevant experience and past performance for the company, not the experience and past performance of individuals involved with contract performance (the latter are to be evaluated under technical criteria - key personnel). The manner in which this factor will be used in the evaluation and the sources which will be queried to obtain information, must be clearly identified in the RFP.

(ii) Past performance may include, but is not necessarily limited to: (A) experience on similar work; (B) corporate experience; (C) past demonstrated ability to meet schedule and cost constraints; (D) past demonstrated ability to achieve program

objectives; (E) quality of product/service delivered on other efforts; and (F) input obtained from outside sources. Evaluation does not have to be limited to information in the proposal. For

Enclosure (22) to COMDTINST M4200.19F

example, contracting officers may use the National Institutes of Health (NIH) Contractor Performance System (CPS) to obtain additional information about a contractor. Other agencies also have similar data base systems which may be used. If information obtained outside the proposal is used for evaluation, the RFP must clearly state that non-proposal information may be considered. Further, it must be documented in writing and reasonable attempts must be made to obtain such input for all offerors. Note that when award is made without discussions, offerors may be allowed to clarify adverse past performance information (see e(1) below). If discussions are held, offerors must be given the opportunity to address unfavorable reports of past performance (see e(3)(ii) below).

(4) The extent of participation of small disadvantaged business concerns in performance of the contract shall be evaluated in unrestricted acquisitions expected to exceed \$500,000 (\$1,000,000 for construction) subject to certain limitations (see 19.201 and 19.1202).

e. Conduct of the Evaluation. The contracting officer who is normally the SSA for procurements under \$20 million, may appoint a team of experts to evaluate technical proposals. The size and composition of the team should be tailored specifically to the acquisition. It is important for the team to have a good evaluation plan and to follow it faithfully. If all team members act in accordance with the plan and assume responsibility for their respective roles, the source selection process is a relatively easy one. If not, the process can be painful and result in a poor source selection and contract award. Care should be taken to educate and inform the technical evaluation team regarding their responsibilities. At the end of their deliberations, the technical evaluation team produces a technical evaluation report. The technical evaluation report is the backbone of any source selection decision.

(1) The evaluation plan will identify the SSA. It will describe the roles and responsibilities of technical and cost evaluators. The contracting officer will normally be a member of price/cost team. The

plan will indicate whether or not cost/price proposals will be made

CH-1

12

Enclosure (22) to COMDTINST M4200.19F

available to the technical evaluators. The evaluation plan shall ensure that Procurement Integrity Act provisions contained in FAR, TAR and CGAP are followed (see especially FAR Subsections 3.104-3 and 3.104-5.)

(2) The evaluation plan will contain a measuring methodology for determining how well each offeror's approach meets the requirements. The evaluation team may develop their own subcriteria which are consistent with the evaluation criteria set forth in the RFP. However, these criteria must be included within the evaluation plan which is approved by the contracting officer prior to release of the RFP. Considerable judgment must be exercised when establishing subcriteria and weights. FAR 15.304(d) states that all factors and subfactors that will affect award and their relative importance shall be stated clearly in the solicitation. Thus, if subcriteria are developed, they may not be so substantial as to change the merit or relative importance of any published factor or subfactor.

(3) When using the trade-off process, evaluation plans must define standards against which the proposals will be measured. It is preferable to use a simple, common system for structuring evaluations (e.g. "excellent, good, satisfactory, poor"). The evaluation plan shall also provide for a method of identifying significant differences so they do not get lost in mathematical roll-ups of scores. For example, two offers with a "satisfactory" score may not necessarily present equal risks on selection. One may have consistent strengths and weaknesses while the other is stronger in some areas but may have a critical weakness that could seriously affect subsequent performance. The evaluation plan should have a mechanism for highlighting this type of critical issue. Any evaluation-related information, if not included in the RFP, shall not be released to any potential offeror nor to anyone who is not directly involved in the source selection evaluation effort without concurrence of the SSA. For lowest Price Technically acceptable method, see Section 1.a.(1)(iii).

13

CH-1

Enclosure (22) to COMDTINST M4200.19F

(4) It is imperative that the evaluation plan clearly describes a process for tracking all documents throughout the evaluation. This includes but is not limited to tracking all correspondence with offerors such as requests to correct a deficiency (DRs) or requests for clarification (CRs), the replies to each, and how each was or was not resolved. There must also be clear traceability from this correspondence to reports submitted by evaluation teams.

(5) Proposal evaluation: Upon receipt of proposals, the contracting officer shall take precautions to ensure the information is safeguarded and to ensure that all participants safeguard this material. Evaluation of proposals should begin promptly and be conducted in a fair, comprehensive, and impartial manner.

(6) Evaluators are required to evaluate each proposal and document their findings. These findings will form the basis of the written evaluation report (see g below). Evaluators are expected to understand the requirement, the solicitation, the evaluation criteria and their relative importance, and the measuring methodology. They must be well-versed in their professional fields.

(7) If evaluation teams have been appointed, the SSA shall provide the teams with proposals or portions of proposals to be evaluated, instructions regarding the expected function of each team, and all data considered necessary or helpful. At this point offerors may be allowed to provide the evaluation teams with a general briefing on their proposals if oral presentations will be used to augment the written offer. In the event of any inconsistency between this presentation and an offeror's proposal, the proposal takes precedence.

(8) Normally, for Coast Guard non-major acquisitions, offerors' cost/price proposals will be made available to technical evaluators after completion of the initial technical evaluation. However, there may be instances where technical evaluators might lose some of their objectivity if they are aware of the cost/price of a technical approach before their evaluations are complete. It is the

contracting officer's decision when the cost/price proposals will be made available to the technical evaluation team.

(9) Other team members (e.g. legal, cost estimators) may need to discuss the details of technical proposals with the technical personnel to aid in their evaluation of costs associated with labor categories and hours, materials, manufacturing processes, and other elements of cost. Cost evaluators may also need to discuss the Government estimate with the individual who prepared the estimate. Such discussions shall be held only with contracting officer oversight. Cost evaluators should also use Defense Contract Audit Agency reports and Defense Contract Management Command Field Price Analysis reports when appropriate.

f. Exchanges with offerors after receipt of proposals. It is important to understand the meaning of exchanges with offerors.

(1) Clarifications are limited exchanges between the Government and offerors, that may occur when award without discussions is contemplated. If award will be made without conducting discussions, offerors may be given the opportunity to clarify certain aspects of proposals, for example past performance information or minor or clerical errors. Award may be made without discussion only if the solicitation so states (see FAR 15.306(a)).

(2) Communications are exchanges between the Government and offerors, after receipt of proposals, leading to establishment of the competitive range (see FAR 15.306(b) for the complete list of limitations in the subsection).

(3) Negotiations are exchanges, in either a competitive or sole source environment, between the Government and offerors that are undertaken with the intent of allowing the offeror to revise its proposal.

(i) When negotiations are conducted in a competitive acquisition, they take place after the establishment of the competitive range and are called discussions. The primary objective of discussions is "to maximize the Government's ability to obtain best value,

based on the requirement and the evaluation factors set forth in the solicitation."

(ii) The content and extent of the discussions is largely a matter of the contracting officer's judgement based on the particular facts of each acquisition. But it must include advising the offeror of "significant weaknesses, deficiencies, and other aspects of its proposal (such as cost/price, technical approach, past performance, and terms and conditions) that could, in the opinion of the contracting officer, be altered or explained to enhance materially the proposal's potential for award." This last sentence is quoted directly from FAR to emphasize its importance.

g. Written technical evaluation team reports. The technical evaluation team must prepare a comprehensive written report, after its evaluation is completed and submit it to the SSA.

(1) This report shall include:

(i) For all evaluators, a summary of the findings of the evaluation team, including an evaluation worksheet summarized for the team as a whole; and an independently conducted evaluation of proposals against the standards set out in the evaluation plans. (Note that proposals are not to be evaluated comparatively, although if using the trade-off process, the SSA may properly call upon the technical evaluation team to rank the technical proposals later on).

(ii) For awards to be made without discussion, a statement for each proposal describing any clarifications, or other information which the evaluation team wants to bring to the attention of the SSA.

(iii) For awards to be made with discussion, in addition to the evaluation reports, a statement for each proposal describing strengths, weaknesses, deficiencies, and risks which significantly affected the evaluation. State any reservations or concerns, together with supporting rationale, which the team or

any of its members wants to bring to the attention of the SSA along with a recommendation of items for clarification or discussion. Concerns and items for discussion should reflect the evaluation criteria and address the appropriate elements such as soundness of approach, understanding of requirements and risks (see also 3.g.4).

(iv) For all evaluations, copies of team members' individual worksheets and all supporting comments to the lowest level of evaluation based on the evaluation plan (this information is to be retained by the contracting officer for all offerors).

(2) The technical evaluation report must document the deficiencies and uncertainties associated with an offeror's proposal, if applicable. An uncertainty can be an omission, an ambiguous part of the proposal, or a weakness which may prevent successful performance. To ensure that no factor other than what has been set forth in Section M has been considered during the evaluation process, the technical evaluation report should define the deficiencies and uncertainties of each proposal and relate them back to the specific evaluation factors and subfactors. Also see e(4) above.

(3) The technical evaluation report should classify all offers in one of three categories: (i) Technically Acceptable. The proposal conforms completely to the solicitation requirements; however it may still be necessary to discuss weaknesses, excesses, or uncertainties in order to obtain a contract most in compliance with the specification/statement of work. (ii) Technically Unacceptable But Capable Of Being Made Acceptable. The proposal can reasonably be expected to be made acceptable through discussions and receipt of moderate changes and revisions. (iii) Technically Unacceptable And Not Capable Of Being Made Acceptable Without Major Change Or Rewrite. The proposal could not reasonably be expected to become acceptable without extensive changes and revisions amounting to a wholly revised proposal. Note that for best value procurements, there may be a

Enclosure (22) to COMDTINST M4200.19F

fourth category, Superior, indicating the proposal meets all contract requirements and exceeds them in some way which adds to their value and benefits the Government.

(4) If there are to be negotiations with offerors (i.e. award without discussion is not contemplated), the technical evaluation report should provide a listing of recommended discussion items for each proposal. The discussion items should relate directly to a weakness, deficiency, or ambiguity discovered during the evaluation process. The report must support the classification through detailed discussion of the weaknesses and deficiencies in the proposal which relate directly to the stated evaluation criteria. Normally, no further discussions will be held with offerors whose proposals are determined to be Technically Unacceptable And Not Capable Of Being Made Acceptable Without Major Change Or Rewrite. See also 3.g.1(iii).

(5) Traceability. It is imperative that the contracting officer provides clear traceability throughout the evaluation process. All reports submitted by teams will be retained as part of the contracting officer's records. All final evaluation team reports are to be included as part of the final technical evaluation report to the SSA.

h. Competitive Range. The contracting officer shall determine which proposals are in the competitive range for purposes of conducting written or oral discussions. Price or cost and other factors as stated in the solicitation form the basis for the competitive range. In addition, the contracting officer may limit the competitive range for purposes of "efficiency". There is no definition in the FAR of efficiency. The contracting officer may consider the following examples of circumstances to limit the competitive range: production lead time, delivery requirements, resources available to conduct the negotiations, or the variety and complexity of solutions offered. It is left to the contracting officer's judgement as to the greatest number that will permit an efficient competition. Remember, however, that setting predetermined cut-off points based on scores is not an option. The competitive range decision, unlike the proposal evaluation, does require comparison of the

CH-1

18

Enclosure (22) to COMDTINST M4200.19F

offerors' proposals. The competitive range should be based on the quality of the offerors' proposals relative to each other, and to the Government's requirement.

(1) When discussions are to be conducted, the contracting officer shall make a written determination of competitive range prior to

commencement of discussions. This determination shall be based on the ratings of each proposal against all evaluation criteria, unless the range is further reduced for purposes of efficiency pursuant to FAR 15.306(c)(2). Responses to communications from the offerors may be considered.

(2) If the competitive range determination results in only a single proposal, the contracting officer shall review the solicitation to assure that it does not unduly restrict competition. The contracting officer shall document that review by including a statement in the competitive range determination, with supporting rationale, that the solicitation was not restrictive. The SSA must approve the competitive range determination if only one proposal remains. At this point, these structured source selection procedures would cease to be used and the contracting officer would negotiate with the single remaining offeror.

(3) RFP Alternatives and/or Options. Alternatives and/or options may be included in the RFP. Even if they are not, offerors may be allowed to propose alternatives or options in an appendix to their proposals. Alternatives not in full compliance with the solicitation can only be accepted after amending the RFP and giving all offerors the opportunity to revise their proposals. If any of the alternative approaches or options are found to be technically desirable, they may need to be costed, depending upon the decision by the SSA as to how the alternative or option proposal is to be handled. Close technical coordination is required to determine the actual incremental cost of an alternative or optional approach. The validity of the ensuing trade-off analysis depends heavily on this cost/technical interaction.

(4) The competitive range determination must be documented in the Prenegotiation Memorandum, Section VI, (Enclosure 19 to CGAP).

Enclosure (22) to COMDTINST M4200.19F

(5) Notification of Elimination of Offerors. The contracting officer shall promptly notify offerors in writing when their proposals are excluded from the competitive range or otherwise eliminated from competition (see FAR 15.503).

i. Discussions. Discussions must be conducted with all offerors in the competitive range. The contracting officer has great latitude and

discretion in determining the content and extent of the discussions. However, since by definition all offerors in the competitive range have a reasonable opportunity for award, the intent of the discussion process is to ensure that any offeror being considered for award does meet the Government's minimums.

(1) All offerors selected to participate in oral discussions must be advised of the time and place for conducting these exchanges, the Government participants, and the topics for discussion.. Offerors are also to be informed of any further information required, significant weaknesses, and/or deficiencies in their proposals in advance of the meeting. The contracting officer is responsible for controlling all such exchanges with offerors and must tailor the exchanges to each offeror's proposal.

(2) Discussions should include exchanges concerning weaknesses and deficiencies as well as any other aspects of the proposal (such as cost, price, technical approach, past performance, and terms and conditions) that could in the opinion of the contracting officer be altered or explained to materially enhance the proposal's potential for award. The preceding phases in bold are not well defined or interpreted in the FAR. The safest course is to discuss all correctable elements of a proposal that have been negatively evaluated if those elements impact the source selection decision. You may discuss aspects of a particular technical approach that does not contain weaknesses if discussions might materially enhance the proposal's potential for award by altering or explaining the technical approach. But as noted in (4) below, you may not use the technical information or ideas of other competing offerors in these discussions, and you must ensure that all other technical proposals are given the same opportunity for enhancement.

CH-1

20

Enclosure (22) to COMDTINST M4200.19F

(3) Discussions may also include bargaining, defined in FAR 15.306(d) as ".persuasion, alteration of assumptions and positions, give-and-take, and may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract." Discussions may also include information to the offeror that the Government considers its price too high or too low and may also indicate to all offerors the cost or price that the Government considers reasonable.

(4) Discussions may not include disclosure of the relative strengths and weaknesses of competing offerors, or technical information or ideas. The contracting officer may not reveal another offeror's price unless that offeror grants permission.

(5) In addition to discussions of an offeror's weaknesses and deficiencies, contracting officers should ensure any special clauses, provisions or deviations have been discussed and agreed upon prior to requesting or allowing proposal revisions.

(6) If after discussions have begun, the contracting officer determines an offeror is no longer highly rated enough to remain in the competitive range, that offeror may be eliminated in accordance with FAR 15.306(d)(4).

j. Final Revisions. At the conclusion of discussions, a final common cutoff date must be established which allows a reasonable opportunity for offerors still in the competitive range to submit written proposal revisions. Revisions shall include confirmation of all pertinent oral or written correspondence which occurred subsequent to the initial proposal submittals up to and including understandings reached during discussions. At this juncture, after discussions are concluded, offerors shall be notified in writing of the following:

(1) Offerors must confirm that their latest previous proposal is still valid or submit a revised proposal by the final common cutoff date.

(2) Changes in the final revision that are not fully substantiated may have a negative impact on the evaluation of the offeror's proposal.

Enclosure (22) to COMDTINST M4200.19F

(3) Changes in the final revised proposals must be identified and traced back to the latest previous offer especially in regard to the cost proposal.

(4) Exceptions taken to the Government's requirements in the final proposal revision may result in a negative evaluation.

(5) Only the information submitted in writing will be evaluated and

considered in making the source selection. If information presented in an oral presentation is intended to be included in the contract as material terms or conditions, the information shall be put in writing in the final proposal revision.

(6) Upon request for proposal revisions, further revisions prior to award are not contemplated.

k. Reopening of Discussions After Final Revision. Contracting officers shall not reopen negotiations or discussions after receipt of offeror's final revisions except in extremely rare circumstances. This course of action must be fully justified in writing, include written coordination with legal counsel and be approved by the SSA. However, in situations where another revision is required for administrative reasons rather than lack of adequate information from the offerors, the contracting officer may request these administrative revisions from all offerors in the competitive range.

l. SSA Decision. The SSA shall select the contractor(s) for award. The basis for the SSA decision shall be documented in the Price Negotiation Memorandum, Section VI (Enclosure 20 to CGAP).

m. Debriefing. The basic purpose of a debriefing is to furnish information that should permit the offeror to submit a better proposal in the future. In addition to post-award debriefings, offerors excluded from the competitive range or otherwise excluded from competition before award may request a debriefing before award is made. See FAR 15.505 and 15.506 for procedures and timing of debriefings before and after award.